

Participation of civil society in new modes of governance: the case of the new EU member states. Part 1: The state of civil society

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**Participation of Civil Society in New Modes of Governance.
The Case of the New EU Member States**

Part 1: The State of Civil Society

**Edited by
Heiko Pleines**

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Part 1: The State of Civil Society

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Introduction

This working paper presents the first results produced by a research group examining the impact of the 2004 EU enlargement on governance structures involving the participation of civil society organisations. This research group is part of the NEWGOV Integrated Project, led by the European University Institute.¹

The aim of this Integrated Project is to examine the transformation of governance in and beyond Europe by mapping, evaluating and analysing the emergence, execution, and evolution of what we refer to as 'New Modes of Governance'. By new modes of governance we mean the range of innovation and transformation that has been and continues to occur in the instruments, methods, modes and systems of governance in contemporary polities and economies, and especially within the European Union (EU) and its member states (both current and prospective).

New modes of governance cover a wide range of different policy processes such as the open method of co-ordination, voluntary accords, standard setting, regulatory networks, regulatory agencies, regulation 'through information', bench-marking, peer review, mimicking, policy competition, and informal agreements, as well as new modes of governance and forms of policy experimentation in different economic sectors, where a new mix of public and private goods is sought. Policy areas in which the new modes of governance are applied include, for example, macro-economic management, economic reform and innovation, research and development, employment, social inclusion, public service provision, and sustainable development; migration, criminal prosecution, utility and service regulation, taxation, training and education and others. But we do not restrict our analytical attention solely to the creation of new or novel instruments of governance. Indeed, it would not make sense to do so, given that innovation is rarely path-breaking and usually occurs in the context of institutional inertia and complexity, demanding the 'old' is examined along with the 'new'. Moreover, the most fascinating puzzles are to be found at the boundaries of governing modes, both old and new, where they overlapping, merge into one another and develop hybrid forms.²

The integration of eight post-socialist countries into the EU as part of the 2004 enlargement is one of the issues which receive special attention within the integrated project, as

the question of the viability of the new modes of governance is of a particular importance for the transformation of the societies, legal systems and cultures, economies and polities of the new member states where governance issues arise in a different way and have to meet the double challenge of Europeanisation and transition.³

In this context our research group, which has produced this working paper, focuses on the post-socialist cases of participation of civil society in new modes of governance. Here, two aspects are of special importance. First, are civil society organisations in the new EU member states

¹ NEWGOV – New Modes of Governance, Project no. CITI-CT-2004-506392, Integrated Project, Priority 7 – Citizens and Governance in the Knowledge-based Society, Funded by the European Union under the Sixth Framework Programme. The research group is part of project 24, which is directed by Daniela Obradovic, Amsterdam Center for International Law. The research group is headed by Heiko Pleines, Research Centre for East European Studies (Forschungsstelle Osteuropa, Bremen, Germany). Further NEWGOV partners in the research group are Michal Fedorowicz (Institute of Philosophy and Sociology, Polish Academy of Sciences, Warsaw, Poland), David Lane (University of Cambridge, UK) and Zdenka Mansfeldová (Institute of Sociology, Academy of Science of the Czech Republic, Prague, Czech Republic).

² NEWGOV. New modes of governance. Scientific objectives and project overview, p.5 (http://www.eu-newgov.org/database/PUBLIC/P11000-01-DESC01_NEWGOV_Project_Overview.PDF)

³ *ibid.* p.5.

capable of adequate participation in (old and new) modes of governance at all relevant levels and in all relevant policy areas? And second, are there adequate mechanisms in place in the new EU member states to monitor and regulate the activities of civil society organisations participating in (old and new) modes of governance.

This first working paper of our research group is devoted to the state of civil society in the new EU member countries with a socialist past, focusing on the capability of civil society organisations in these countries to participate in old and especially new modes of governance at the national as well as at the EU level. As participation in EU-organised or EU-designed modes of governance is of special importance for the project, the empirical analysis is based on the EU definition of civil society, to make sure that the group of actors covered by the project and by EU regulation is identical. According to the EU

*civil society includes the following groups: trade unions and employers organisations (social partners); organisations representing social and economic players which are not social partners in the strict sense of the term (for instance, association of pharmaceutical industry); non-governmental organisations which bring people together in common cause, such as environmental organisations, human rights organisations, charities, professional associations, grass roots organisations; organisations that involve citizens in local and municipal life with a particular contribution from churches and religious communities.*⁴

How this definition corresponds to ideas of civil society being discussed in academic research and what the theoretical and analytical consequences of these definitions are, when applied to post-socialist cases, is discussed by David Lane in his contribution on civil society and the imprint of state socialism. At the same time Lane gives an overview of the specific legacies influencing the development of civil society in post-socialist states.

Michał Federowicz then presents a theoretical framework to describe the transformation process going on in post-socialist societies. He discusses changes in the different spheres of society, namely macro- and microeconomic levels, the state and civil society, in an integrated way. Thus he puts the position and functioning of civil society in the new EU member states in its societal context.

The following contribution by Heiko Pleines moves on to analyse the role of civil society organisations in policy-making. He takes the examples of Poland and the Czech Republic and contrasts them with Russia in order to show differences within the group of post-socialist cases.

In her case study of Czech civil society actors in the social dialogue Zdenka Mansfeldová then offers a closer examination of the role of civil society groups from new EU member states in new modes of governance. Her analysis of the different partners in the social dialogue compares the regional, national and EU level and includes a critical assessment of the ability of Czech civil society organisations to participate in the European social dialogue.

As there is a huge amount of literature discussing the questions addressed in this working paper, a selected bibliography, compiled by Małgorzata Czerniak, is included to give an overview of recent research on the topic.

With these five contributions this working paper tries to summarize the analysis of the state of civil society in the new EU member states, focusing on the capability of civil society organisations to engage in policy-making processes. The second working paper of our research group, to be published in autumn 2005, will then analyse the accountability of civil society organisations from new EU member states participating in (old and new) modes of governance.

⁴ Commission of European Communities (2001) European Governance: White paper, COM(2001) 428, Brussels, 25.7.2001, p. 14.

Civil Society and the Imprint of State Socialism

The transformation of the former state socialist societies involved four interdependent processes and related institutions. First, the formation of new state formations (forms of government and their legitimation); second, a shift from planning and administrative coordination of the economy to economic markets and private property; third, in the social sphere, a movement from the hegemony of the Communist party to polyarchy and civil society and fourth, a realignment of states in the arena of international relations.

This paper is concerned with civil society, the development of which is one of the major social objectives of the enlarged European Union¹. Until the collapse of state socialism, the notion of 'civil society' played a relatively unimportant role in political analysis in Western societies. Since then it has become a major theoretical tool, as well as a policy objective, in the construction of post state socialist societies. The European Union '[promotes] the role of voluntary organisations and foundations in Europe', its political objective is 'the building over time of a strong civil dialogue at the European level to take its place alongside the policy dialogue with the national authorities and the social dialogue with the social partners'².

'Civil society', however, is a concept fraught with ambiguity. In an empirical sense, it is a concept describing a sphere of society. In a normative one, it is promoted as a type of association believed to enhance human well-being. Both of these aspects of civil society are areas of contention. What constitutes the scope and nature of civil society is open to many interpretations, which I detail below. It is also objected that civil society is normatively flawed: it is class created and secures a fragmented conflict ridden social order³. In this paper we examine these claims then consider the peculiar societal structures in the state socialist societies of Eastern Europe in which civil society is now to be encouraged, crafted and even 'manufactured'⁴. Existing civil society is embedded in structures and processes of the political, economic and international spheres; and the creation of civil society in the post-socialist countries has to be analysed in the context of the transformation of the other spheres defined above.

Civil Society Defined

In its most general sense, civil society is that social space between individuals and primary groups (the family) and the political authority (the state). For many civil society theorists, autonomous associations and institutions fills all this space. These range from privately owned economic corporations to voluntary self-help associations. Civil society is distinguished by the autonomy of these intermediary groups from the sphere of state activity.

Secondly, sociological interpretations consider the structural differentiation of modern society to create different spheres of social life, each interacting, and being interdependent, with one another: the economic system, science and education, mass media and culture. These spheres interact with

¹ 'The Role and Contribution of Civil Society Organizations in the Building of Europe', Brussels: EU 22 September 1999. (CES 851/99D/GW)

² COM(97) 241 final, cited in 'The Role and Contribution of Civil Society Organizations in the Building of Europe', Subcommittee Civil Society Organizations, Brussels, 22 September. (CES 851/99 D/GW).

³ David Rieff has pointed to civil society as a component in ideological hegemony of the West: '...the idea of civil society begins to look less like a way of fostering democratic rights and responsive governments and more like part of the dominant ideology of the post cold war period: liberal market capitalism'. 'Civil Society and the Future of the Nation-State', February 22, 1999. <http://www.thenation.com>

⁴ The latter term is used by Jude Howell, 'Manufacturing Civil Society from the Outside.' Paper presented at EADI Conference, September 1999.

the family and the political system, the state. The peculiar feature of civil society is that it is ‘a solidary sphere in which a certain kind of universalising community comes gradually to be defined and to some degree enforced’⁵. Alexander conceives of civil society as some independent set of civil ties of communities with their own ‘cultural codes, and narratives in a democratic idiom’⁶. Rather than considering the units of civil society to be ‘autonomous’ and independent of other component parts of society, they are envisaged as interacting with, influencing and being influenced by, other spheres of society. A similar view is taken by Chris Hann who, criticising the western model (of essentially ‘autonomous’ units) which is being imposed in central and eastern Europe, contends that we should ‘understand civil society to refer more loosely to the moral community, to the problems of accountability, trust and cooperation that all groups face. In this sense, all human communities are concerned with establishing their own version of a civil society...’⁷ This theoretical approach has the advantage that it does not privilege one form or paradigm of ‘civil society’, and does not define it in terms of the market and possessive individualism. It includes ‘reciprocal associations’, informal networks and forms of mutual support. This approach avoids the suspicion that the type of ‘civil society’ willed by the dominant Western states is ethnocentric.

A third approach is that of critical theorists. Writing from an historical perspective they associate the rise of civil society with the development of capitalism, and consider its formation to be dependent on the bourgeoisie. The emphasis here is on the economic formation distinguished by private property and the continuous quest for profit realised through the market. Alvin Gouldner points out that ‘the social structures of civil society were *not* independent entities generating bourgeois society but were, rather, forms in which bourgeois society had emerged; that is, *they were the products rather than the producers of the bourgeois class*’⁸. The institutional set-up was not ideologically autonomous; the legal system enforced rights to private property and made the accumulation of capital possible. Unlike Alexander, for whom all differentiated spheres are ‘interconnected and interpenetrated’, for these critical theorists, the capitalist economy presides over, or determines, the other segments.

For all these interpretations, civil society has three major components: an area between the individual (or family) and the state; an economy based on private ownership and the market; and a particular set of values and norms which include the legitimating concepts of freedom and democracy. While Marxist writers, like Gouldner, include economic institutions in civil society, writers focussing on the structures and processes of the post-socialist societies (including the policy makers in the EU) restrict the term to various forms of social association, and consider institutions of the ‘market’ (as well as the state) to be distinct from ‘civil society’.

Unlike Gouldner and others, who posit the formative influence of the economy and the capitalist class, policy makers concerned with post state socialist society emphasise the role of political organisations in creating the institutions of civil society. Paradoxically, perhaps, both Marxists and current policy practitioners advocate the dependency of civil society on dominant institutions: the former, the bourgeoisie, and the latter, political interests in Western states.

In a normative sense, the active ‘creation’ of civil society in the post-communist societies is justified in three ways. First, it has an ideological function: as a component in a counter ideology to ‘totalitarianism’ (in which the state had complete control). In the process of the collapse of state socialism, the concept was used to legitimate organisations and associations in opposition to the communist state. It enabled diverse religions, national, social and occupational groups and interests

⁵ J.C. Alexander, ‘Introduction’, *Real Civil Liberties*, London: Sage 1998, p.7.

⁶ *ibid.*

⁷ Chris Hann, ‘Introduction: Political Society and Civil Anthropology’ in C. Hann and E. Dunn (Eds), *Civil Society: Challenging Western Models*, London: Routledge, 1966, p.20.

⁸ Alvin W. Gouldner, *The Two Marxisms*. New York: Oxford University Press, 1980, p.355. Italics in original.

to adopt a shared notion of a common interest held by citizens in general. Second, it legitimates a social space in which private property and economic institutions may develop independently of the state. Historically, civil society enabled capitalism to develop; it provided the ‘free space’ in which entrepreneurship was able to pursue its self-interest through the market. Its third major role is to provide the social conditions, or societal ‘supports’ for democracy⁹. To avoid the ambiguities of the term ‘democracy’ and particularly to overcome the vagueness of the popular conception of democracy as rule by the people, (or its mis-use by politicians, as any type of government favouring their own interests), I follow Robert Dahl in defining modern ‘democratic’ states empirically as ‘polyarchies.’ That is, a system of rule characterised by competing elites, of which the governing political elite is legitimated from time to time by voters through elections. Moreover, the framework of political pluralism and civil society is a major component of democracy in its contemporary normative meaning. Civil society provides the enabling conditions for the articulation and aggregation of interests – it makes a participatory space for the citizen.

Civil society, in its association with transformation of the central and east European societies, has undergone a significant change in emphasis, it is not linked to the rights of economic organisations, private property and the market (which have become decoupled from civil society) but becomes part of the legitimating rhetoric of democracy. This then is the essentially normative approach endorsed by Western governments and their agents in the transformation and consolidation of the post-communist societies. The standard ‘authorised’ European Union definition is: ‘Civil society includes the following groups: trade unions and employers’ organizations (social partners); organizations representing social and economic players which are not social partners in the strict sense of the term (for instance, association of pharmaceutical industry [sic]); non-governmental organizations which bring people together in common cause, such as environmental organizations, human rights organizations, charities, professional associations, grass roots organizations; organizations that involve citizens in local and municipal life with a particular contribution from churches and religious communities’¹⁰. In this sense, as a normative concept, civil society is a major social support to, and component of, a democratic society.

‘Civil Society’ in State Socialism

Civil society is contrasted with ‘totalitarianism’ which is the political formation it seeks to replace. While I shall contend that ‘totalitarianism’ is an inadequate concept to describe the state socialist societies, it is one which informs Western policy discussion. ‘Totalitarianism’ is the footprint on which the post state socialist societies are based¹¹. Totalitarianism might be defined as a social system, which ‘seeks to politicise all human behavior and plan all human relationships’, its chief features include the obliteration of the distinction between state and society and the destruction of associations between the state and the individual¹².

Characterized by total control through the centralized state apparatuses, totalitarian regimes are different from authoritarian ones. The state (in its different forms) owns and controls the economy; a major component in the state apparatus is the Party, which defines a dominant

⁹ In the Marxist tradition, however, civil society is the site of individuality in which property relations may develop, it is a fragmented space characterized by conflict. From this viewpoint, civil society is destructive of human society rather than being supportive of true democracy.

¹⁰ Commission of European Communities (2001) *European Governance*: White paper, COM(2001) 428, Brussels, 25.7.2001, p. 14.

¹¹ The influential writing of Juan J. Linz and Alfred Stepan utilizes the notion of ‘totalitarianism’ to distinguish the state socialist societies from others undergoing transition (see pp.40–41), though they concede that its character was changing from the 1980s, and define the societies as being in the ‘post-totalitarian’ mode. *Problems of Democratic Transition and Consolidation*, Baltimore and London: Johns Hopkins University Press, 1996, pp.40–42.

¹² Alfred G. Meyer, *The Soviet Political System*, New York: Random House, 1963, p.471. W.Kornhauser, *The Politics of Mass Society*, London: Routledge, 1960, p.123.

ideology, and penetrates all social institutions and thus prevents the formation of autonomous organisations and institutions. However, some institutions, such as churches and the Academies of Science, are tolerated but their autonomy is circumscribed. To inhibit the development of social groups and thus to prevent competition with the ruling political elite, society is consciously 'massified' by the dominant political elite. Participation in totalitarian societies is a form of manipulation of subjects who are coerced into (often hyper-active) support of policies and activities of self-perpetuating political elites.

This version of the socio-political order of state socialism entails not only the absence of civil society but of pluralistic institutional and group formations as well. Linz and Stepan, for example, contend that there could be no 'institutional pluralism' because all organisations were created within the party-state itself¹³. The implication here is that the 'transitional societies' of central and eastern Europe and the former USSR are quite different from other societies which experienced a 'transition' from authoritarian rule. Countries such as Spain and Portugal were not totalitarian: they had private businesses, private educational, religious and social organisations. People were free to combine as long as they did not challenge the authoritarian government.

In the post state socialist societies, civil society could not be created from the rubble of state socialism but had to be made anew, primarily through the new indigenous elites, positively assisted from the West. From this conventional standpoint, the footprint of state socialism was a faint one having little impact on the collectivities of post state socialism. The policy implication is that with the collapse of the state, an empty social space existed, in which civil society had to be created from above; ironically, by Western states through their political agents, non-governmental organisations.

This interpretation is disputed in the present paper. It is contended that 'totalitarianism' is far too ideologically loaded to describe the social and institutional structure of the former state socialist societies. But it must be recognised that 'civil society', defined as autonomous groupings independent of the state, was weak: the absence of private property and a market in the economy, and the absence of political competition in the polity destroyed the pillars of the liberal democratic state. 'Totalitarianism', however, is misleading as it occludes pluralistic elements in the structure of state socialism which provided political springboards for developments after the fall¹⁴. Even Linz and Stepan concede that 'most of the Soviet-type systems in the 1980s were not totalitarian'¹⁵. These writers move away from the idea of a 'massified' society to one in which the social institutions were all 'maintained by the party state'¹⁶.

The major fault in the totalitarian conception is that it reduces all social life to dependency on the political. It is similar in character to Marxist accounts, except that Marxist ones reduce phenomena to an economic base. Just as Marx regarded society (and particularly, civil society) as part of the superstructure determined by the economic base, so too do theorists of totalitarianism reduce all social life to the consequences of the party-state. (The exceptions were the Churches, which were effectively excluded from social life). In neither Marxism nor totalitarianism does civil society, set between individual and the state, play an important role.

¹³ P. 41.

¹⁴ See for instance, Jerry F. Hough, *The Soviet Union and Social Science Theory*, Cambridge, Mass: Harvard University Press 1997. David Lane, 'The Group Process of Politics', *Politics and Society in the USSR*, London: Martin Robertson, 1978, chapter 8. David Lane, 'The Role of Social Groups', in David Lane and George Kolankiewicz, *Social Groups in Polish Society*, London: Macmillan, 1973, chapter 7.

¹⁵ Problems of Democratic Transition, p.41.

¹⁶ Problems of Democratic Transition, p.245.

My own approach is to conceive of social differentiation as being part of urban industrial society, whether it be state socialist or capitalist. In Western European societies, the government is a major owner of assets, finances and directs education, transport infrastructure, social welfare and plays an important role in funding and often staffing the voluntary ('non-profit') sector. Annette Zimmer has pointed out that in Germany and Austria, 'civil society organizations are primarily funded by government'¹⁷; University teachers and research staff are financed and their institutions regulated by government to promote national needs. Taxation policy can and does influence the well being (or otherwise) of the voluntary sector. While not part of a 'civil society', in the liberal-democratic sense, the socio-economic structures which evolved under state socialism were enduring institutions which have had a major impact on the transition process in these societies. Hence rather than a dualism between 'the ruling elite' and 'the mass', I contend that state socialist society was differentiated. Science, theatre and the arts, economic enterprises, educational institutions, the army, sports and social association all had their own specific sphere of activity, which promoted forms of communication, networks and identity. Just as the football clubs Glasgow Rangers and Glasgow Celtic represent different religious communities, so too did Moscow Dynamo (security interests) and Moscow Spartak (cultural ones). Such spheres – economic, cultural and political – interacted with each other. The institutional framework also enabled social networks to flourish, in addition to those which sprang up spontaneously to enable people to cope with the shortages and absence of market exchange under state socialism¹⁸.

The mobilisation of people under state socialism was a process in which new attitudes, values and expectations were created. As Huntington put it: mobilisation involves 'a change in the attitudes, values and expectations of people from those associated with the traditional world to those common to the modern world'¹⁹. The fact that organisations were formed, that associations and networks persisted within the party-state is of crucial importance in understanding the 'footprint' of state socialism. What is relevant to the formation of pluralist groups is the type of, and extent to which, associations and organisations had been formed within the context of the socialist state. While this form of participation was 'sponsored' by the party-state, what is important for the formation of civil society is the extent of popular associations and the salience of formal and informal networks of people. It is contended that these associations or networks provided a basis, not only as support to the socialist regime, but also as means by which individuals pursued their own interests within the context of state socialism and, in its decline, even formed oppositions to the state socialist governments.

In this paradigm, rather than 'totalitarianism' leaving a vacuum in which civil society had to be constructed, on the contrary, post communist societies inherited embedded structures with which the imposition of a Western type of civil society had to contend. These relationships continued in the post-socialist period and provided important conditioning effects on the society in the period of transformation. As David Anderson has put it in an anthropological study of a state farm: '...[W]hat may be formally seen as an economic institution upon concrete analysis was shot through with a multiple number of "mediations" which allowed it to collect significant inputs and in fact organise large portions of "civil and political societies". ..[T]he employees of the state farm ... were as often clients of the state as they were autonomously acting citizens. However, these "clients" insist that they never felt as constrained, marginalized and impoverished in the days

¹⁷ Annette Zimmer, 'Civil Society Organizations in Central and Eastern Europe', in Annette Zimmer and E. Priller (Eds), *The Future of Civil Society in Central Europe*, Robert Bosch Stiftung, Wiesbaden: VS-Verlag Sozialwissenschaften 2002: p. 12. In Western Europe, many professions exist within the framework of the state – school and university teachers, social workers and doctors (even railway workers in some countries): all are state employees.

¹⁸ Alena Ledeneva has contributed greatly to our knowledge of social networks, though she has emphasized those that developed in opposition to the socialist state. I contend that within the state socialist society, structural differentiation made its own 'within system' networks which also continued into the post socialist period.

¹⁹ S.P.Huntington, *Political Order in Changing Societies*, New Haven, Yale University Press: p.33.

of their “passive citizenship” as during the debut of reforms designed to unambiguously differentiate the farm’s formal economic function from its other civic and political roles²⁰.

There are two major ways that the socialist period has influenced the development of civil society during transformation: first, through organisations and associations formed under state socialism; second, through formal and informal networks. The central European societies (excepting Czech Republic and Slovakia) also had a political culture with a heritage of fascist and authoritarian regimes from the 1930s; further east, the post-Soviet republics had not only the legacy of communism but also one going further back of tsarism. Hence it is not surprising that manifestations of these heritages also reappeared in the post-socialist states (e.g. fascist and monarchist emblems, parties and youth groups).

It is important to recognise that the ‘party-state’ was not one monolithic body. As state socialism developed, a form of institutional pluralism ensued. In the segmented administrative system, ministries and economic enterprises developed their own conception of self-interest, the party itself was differentiated both regionally and politically. Non-economic and political institutions (such as the Academy of Sciences) and associations of professionals (such as the Writers’ Unions) interacted with the central administrative and political authorities. Study of the professions in state socialist societies has shown that they were ‘state centred’ but shared many of the characteristics of professions in continental Europe (Jones and Krause make the comparison with France) and they possessed ‘control over their immediate tasks’²¹. Where they differ is in their inability to bargain for wages and conditions. For schoolteachers, Jones argues that they had more “‘professional’ self-identity than is found in... the United States”²².

A differentiated society characterised the European socialist states. As early as the 1970s, the articulation and aggregation of group interests could be detected. In Poland, ‘the political leadership is a form of steering and ...social groups are structures which both limit and influence the direction that steering may take’²³. Institutions, such as the Academy of Sciences, had their own organisational forms, despite the influence of the role of the nomenklatura in executive appointments. As Jerry Hough has put it: ‘The political leadership has not been intervening against the interests of major groups in the system; decisions ... largely seem to be those that the respective specialised ministerial-party-scientific complexes could be expected to favor in the various policy areas; a wide range of proposals for incremental change are observable in the press, as is a great deal of interest representation by specialist figures within a broadly defined “leadership echelon”’²⁴. While truth in the ‘totalitarian’ approach rests is the absence of a competitive electoral political system and marketised economic relationships, there were important interest groups, as well as networks, operating within the political framework. Within the intelligentsia, for example, there were anti-Lysenko scientists, pro-Solzhenitsyn writers, as well as groups of intellectuals who opposed ‘socialist realism’. These pluralistic forms later provided a platform, not rubble as some contend, for the creation of group interests in the states undergoing transformation.

Economic enterprises also developed their own identity, enterprises submitted information and proposals to the higher economic authorities (usually Ministries), one Eastern European

²⁰ David G. Anderson, ‘Bringing civil society to an uncivilized place: citizenship regimes in Russia’s Arctic border’, in Chris Hann and Elizabeth Dunn, *Civil Society: Challenging Western Models*. London: Routledge, 1996, p.114.

²¹ A. Jones and E.A. Krause, ‘Professions, the State and the Reconstruction of Socialist Societies’, in Anthony Jones (Ed.), *Professions and the State*, Philadelphia: Temple University Press, 1991. p.234.

²² Jones and Krause, p. 237.

²³ Lane and Kolankiewicz, chapter 7. See George Gomori’s chapter on the Polish Writers’ Association which provided a forum for the articulation of various interests. George Gomori, ‘The Cultural Intelligentsia: The Writers’, in Lane and Kolankiewicz, chapter 5.

²⁴ Jerry Hough, *The Soviet Union and Social Science Theory. The Soviet Union and Social Science Theory*, Cambridge, Mass: Harvard University Press 1997, pp.9–10.

economist contended that ‘The commands are written by the recipients [the enterprises]’²⁵. While the trade unions and Party branches acted in concert with the management, the economic enterprise was a social organisation (a *kollektiv*) which provided not only work, but health services, leisure activities (Palaces of Culture) and housing. They were collectivities which created meaningful relationships for their members.

In the economy, links between people with similar types of education and jobs led to professionalisation. In Poland, it has been shown that the technical intelligentsia, through the Conference of Engineers and Technicians’ Association advocated greater independence for professional management. A ‘professional ethos’ and the ‘ethos of science’ among engineers developed in Poland in the 1970s. It was constrained, of course, by the central bureaucracy and the Polish United Workers’ Party, but became a professional interest group²⁶. Management in economic enterprises were powerful, leading some commentators even to talk of a ‘managerial revolution’.

What the totalitarian and ‘post-totalitarian’ interpretations ignore is the human networks created by Party organisations, which have to be taken account of in the period of transition. Before perestroika, the Party membership in the USSR rose from 6.3 millions in 1950 to over 18.1 millions in 1983 (about 9 per cent of the adult population), and members were organised in over 13,000 primary organisations. Similar saturation prevailed in other state socialist countries. Outside the Party networks, state socialist societies had social associations analogous to those in Western societies.²⁷ These groups provided forums for the interaction of people and promoted their participation in the political ‘output’ of the regime. As Friedgut has put it: ‘...political participation at all levels is one of the most consistently applied instruments of socialisation in Soviet life’²⁸. This led to the development of political sub-cultures within the state socialist societies.

Rather than a civil society in a Western sense, we might conceive of groups in the former state socialist societies as ‘sub-cultures’, which had limited ‘inputs’ to the political system. However, they gave personal identity to members. In many cases this involved dispersing and deflecting policy made centrally. It also led to public resistance. In the period of weakening of the state socialist system (from the mid 1980s) these groups became the focus of ‘informal’ groups which organised against the authorities.

The best examples of such ‘resistance’ are to be found in the strikes and demonstrations which took place under state socialism. Manual workers, for instance, organised strikes in Gdansk in 1970/1971 which brought down the Gomułka government²⁹. The Solidarity movement was undoubtedly an organisation autonomous from the Polish state, though it was not paralleled in other state socialist societies. It was an emergent element of civil society which had an important effect in weakening the communist state and played a notable role in the fall of the communist system³⁰.

Under state socialism, though society was not ‘atomised’ or ‘massified’ as defined in totalitarianism, neither were there autonomous units as defined in the first version (above) of

²⁵ I. Vajda, cited by A. Nove, *The Soviet Economic System*. London: Allen and Unwin, 1977, p. 92.

²⁶ See Lane in Lane and Kolankiewicz, p.309.

²⁷ For example, in the USSR as early as 1964, there were 172,388 parents’ committees in schools, kindergartens, crèches and flats with a total of over a million members; 919,722 members of street and house committees, 454,524 members of councils of clubs and libraries. Data cited by Lloyd Churchward, ‘Soviet Local Government Today’, *Soviet Studies*, 17(4), p.440.

²⁸ T.H. Friedgut, *Political Participation in the USSR*, Princeton, New Jersey: Princeton University Press, 1979, p.299.

²⁹ See discussion in Lane, loc cit. pp 311–5

³⁰ David Ost, *Solidarity and the Politics of Anti-Politics: Opposition and Reform in Poland Since 1968*, Philadelphia: Temple University Press, 1990.

civil society. What is of importance for the formation of civil society in the post-communist period was that a pluralism of institutions, associations and formal and informal networks were inherited from the socialist period. This was a form of civil society more in the sense used by Alexander and Hann (version two above).

In the early period of transformation, the number of new organisations in all countries rose³¹. In Russia, in the autumn of 1990, it was reported that 11,000 unsponsored organisations and 20 political parties had been formed³². By 1991, there were over 100 self-defined parties and political groups in the Russian Federation alone. A problem here is that such associations were small and had a short life. Latter, western agencies were also active in giving financial support to the development of civil society groups. This is not bad in itself, but it may distort reporting (non governmental organisation may amplify their own successes). All research conducted in the CEECs (central and east European societies) after the fall of communism, points to a fall in levels of participation as transformation progressed³³.

By the end of the 1990s, levels of involvement in ‘autonomous’ organisations and associations were much lower than in Western societies. A good indication of such participation is given by the World Values Survey which measures membership in a range of voluntary organisations³⁴. Cross-national data were collected in stable democracies, ‘post-authoritarian states’ and post communist countries. The average organisational membership in ‘older democracies’ (such as USA, Australia) in 1995–97 was 25 per cent (of the population) for educational, cultural and artistic associations, and 32.2 per cent membership of labour associations; the corresponding figures for post communist countries were 8.3 per cent and 20.4 per cent. In democracies, for political party membership, the mean was 16.6 and for professional associations 21.1; in the post-communist societies, the figures were 5.9 and 7.6³⁵. If we consider the average number of associations joined per person; in the older democracies the mean was 2.39 and in the post-communist countries, 0.91³⁶. These figures have led policy makers to define a civil society ‘deficit’ in the post-communist countries.

The major reasons for this fall are three-fold. Firstly, participation in associations is linked to economic development and level of GDP – the higher the GDP, the greater the number of participatory associations. All the post-communist societies are at lower levels of economic development than the western advanced states, used above for comparison. In addition, the transformation process led to economic depression and a severe fall in GDP and living standards. Secondly, the ‘mobilised’ participation in the communist period, the ‘elite’ led transformation policies and their consequences (privatisation, monetarisation and consequent increases in inequality and poverty), and the inadequate democratic forms (corrupt elections, deficient party formation) all have led to apathy. Thirdly, the measures of comparison are based on the institutions of Western societies which have had developed capitalist systems (and corresponding forms of civil society) for a long period. They ignore other different more informal network and mutual aid types of associations.

³¹ See for example on Poland, G. Ekiert and J. Kubik, *Rebellious Civil Society: Popular Protest and Democratic Consolidation in Poland, 1989–1993*. Ann Arbor: University of Michigan Press, 1999.

³² *Pravda*, 16 October 1990

³³ See discussion in M.M. Howard, *The Weakness of Civil Society in Post-Communist Europe*. Cambridge: Cambridge University Press, 2003. p.17.

³⁴ World Value Survey data have been conveniently analyzed by M.M. Howard, *The Weakness of Civil Society in Post-Communist Europe*. Cambridge: Cambridge University Press, 2003.

³⁵ Data from Howard, pp. 65–6

³⁶ Howard pp. 68–70. Macedonia was the highest with 1.50, E. Germany 1.44, Slovenia 1.3, Hungary 0.82, Russia 0.65, Ukraine 0.60.

Conclusions

Civil society is used in two senses: as a normative concept of autonomous associations in a democratic society (defined in terms of open party-competitive elections) and as an empirical concept describing associations in 'real existing' societies. In both senses, 'civil society' is defined as the space between the individual (or the family) and the state. Ambiguity arises, however, concerning what occupies this space. Some writers refer to all associations and organisations (including the economy); current usage is to define those groups which are neither part of (nor dependent on) the state nor the economy. The European Union policy approach adopts this latter definition. The paper contends that focussing on 'autonomous' associations ignores the empirical context in which they are located as well as other types of networks. Civil society should also be conceptualised, in its empirical sense, not exclusively as 'autonomous' groupings, but as a sphere of activity interacting with, and shaped by, other spheres including the state and economy. In this wider sociological sense, civil society may include not only associations and institutions, but also norms, values and social identities. This approach avoids the normative policy entailed by the system transfer of one version (often implicitly neo-conservative) of Western 'civil society'.

Civil society in the transitional societies of central and eastern Europe is embedded in the structures inherited from state socialism and prior formations which have had a strong state presence. By framing the state socialist societies in a 'totalitarian' mould, policy makers have underestimated their pluralistic elements. The author argues that, in a sociological sense, the state socialist societies were undergoing structural differentiation, which created the social space for the rise of a fragmented civil society having different contours from those of Western capitalist states. A particular sphere of civil society arose and, although penetrated by the state, became a base for different forms of social solidarity, as well as for political reform movements. It is contended that these provide positive social assets for the further development of civil society in the move to a market society.

With the realignment to the market and political pluralism, Western interests have encouraged the development of civil society in the normative sense and have sought to secure 'autonomous' associations. The form these took was predicated on other objectives of the transformation process – the weakening of the ('totalitarian') socialist state, the formation of capitalism and a bourgeois class, as well as a place in a globalised political economy. Consequent developments – particularly in the ownership and marketisation of the economy – have created a new economic sphere, which should be given more prominence as conditioning factors in the formation of civil society. It is contended that exogenous political interests, by financing, organising and 'manufacturing' civil society, have attempted to impose forms of organization divorced from the empirical reality of the former state socialist societies. The policy agenda should be to support and develop associations which are embedded in the post-state socialist societies, even though these do not necessarily fit conveniently into the framework of neo-liberal social theory. Policy should consider the structures of different communities (particularly civic state related traditions) and build on them. A current objective of creating a 'European identity'³⁷ in civil society might be encouraged by the European Union. But it cannot be manufactured and could only develop over a long period and from within existing social structures.

³⁷ See paragraphs 10.3, 12.3, 13, 'The Role and Contribution of Civil Society Organizations in the Building of Europe'. CES 851/99 D/GW, Brussels, 22 September 1999.

The Role of Civil Society in the Economic and Social Transformation of the New EU Member States

The Legacy of the Past

The process of democratisation that has started in the former Eastern Europe with a series of ‘velvet revolutions’ in 1989 has demonstrated significant success, eventually underpinned by European Union membership of many countries of the region. On the other hand one can not consider the new democracies as fully consolidated systems. Democratic façade¹ does not necessarily make room for genuine engagement of the society in public affairs, as well as democratic elections are not necessarily backed by sound democratic mechanisms of democratic control over policy making. Similarly, in the economic sphere the market institutions – although developing pretty well – are at the same time targeted by political-economic interests groups and are often distorted by discretionary policies that try to protect the pre-existing interest groups.

An analysis of the role, potential, and dynamic of the civil society has to take into account the institutional legacy of the past that still exists in the former communist countries. The interplay of political and economic interests determines to a large extent the social capability for self organisation.

Neo-institutionalism, with its universal notion of social institutions applicable equally well to economic, political and social processes, provides a comprehensive perspective to investigate the development of civil society in the context of deep systemic change. Economic matters seem to play a major role in this analysis, as the nature and distortions of economic institutions strongly affect the distribution of economic and political power, constraining the development of civil society. On the other hand, the development of social self organisation, with transparent interests and mechanisms of control, may significantly contribute to the fine-tuning of economic institutions and democratic consolidation.

First of all, an analysis of transformations within the institutional order should not omit any important sphere which influences other institutional fields. It must be ‘complete’ because any fragmentary attempt at reflection poses a risk of neglecting important interferences from seemingly distant and unrelated spheres of economic life and may ignore the hierarchical dependency between social institutions, a dependency which largely determines the dynamics and success of transformations. Secondly, despite its focus on the systemic level, such analysis must recognise individual motivations, experiences and expectations together with mechanisms which influence them on a systemic scale (institutional microfoundations). A sustainable outcome, epitomised in a consolidated order, will not happen if the systemic level is not harmonised with individual expectations and activities, i.e. two complementary manifestations of the dual nature of social institutions. Therefore, tools applied in the analysis of the existing institutional order must *ex ante* predict the mutual influences between the micro and the macro levels. Thirdly, once essential *institutional segments* are encompassed and their links with *microfoundations* are found, the pivotal elements of the system determining the real dilemmas of change can be identified. Without a continuous effort to uncover the *sensitive spots in the institutional order* the public debate will be entangled in illusory or secondary dilemmas because it will not touch upon the

¹ Mokrzycki, Edmund, Andrzej Rychard, Andrzej Zybertowicz, (eds.). 2002. *Utracona dynamka? O niedojrzałości polskiej demokracji*. Warszawa: Wydawnictwo IFiS PAN.

replications of old informal institutions that have reinforced the *pre-existing distribution of power*, with the interest groups which are most strongly represented in it.

Both the state and the political system provide an indispensable context of economic and social transformations or, rather, determine the significant parts of the universe within which economic and social transformations take place. The most characteristic feature of the entire region previously ruled by communist parties is that economic transition to market occurs simultaneously with democratic changes in the political sphere. One cannot ignore one of those two essential streams of post-1989 transformations since both occurred in response to the most acute shortcomings suffered by societies which then embarked upon the path to systemic transition. Reinstatement of basic civil liberties, including economic freedoms, was an indispensable response to those shortcomings and served as the main lever in overcoming the crisis. It is not easy to imagine legitimisation of economic reforms which would attempt to betray the democratic inclinations in society. Nevertheless, the attempts to reduce the democratic institutions to their façade have been repeatedly undertaken by some ruling elites (e.g. attempts to limit access to information in policy-making processes, attempts to control media or limit their autonomy).

Joel Hellman's work², based on extensive empirical material from 27 post-communist countries, showed that the higher degree of democracy in the political system the faster pace of economic reforms in post-communist transformations. Even if causal relations are difficult to pin down, the mutual reinforcement of both processes is beyond doubt. Moreover, one may say that the shortcomings of the democratic changes enhance the shortcomings of market reforms and *vice versa*. Hence, in order to overcome weaknesses in the former one must reinforce the latter and contrariwise.

How can we understand the role of civil society in this context? In what ways does civil society contribute to the massive and challenging transformations of the political and economic systems in the new EU member states?

The focal point and difficulty of systemic change is the inevitable *permeation (interference)* of institutions belonging to different orders. As a result, new institutions, even if perfectly designed and socially embedded, will interfere with the old institutions. In many cases, new institutions come out weaker from this confrontation with the heterogenic environment of mutually permeating orders, the nature of which is determined by numerous 'informal microinstitutions' anchored in previous practices and connections between agents, but also reinforced by the incoherence of the new institutional order.

As the result, actions undertaken by individual agents do not seem to have a fairly clear orientation. An institutional order with mutually permeating institutions originating from different backgrounds does not provide any clear ground for *individual anticipations and strategies*.³ It also prevents long-term strategies from being pursued and raises the costs of activity (*transaction costs*). According to a fairly popular view, in a reform process there are reformers who try to push advantageous reforms though and the public which tries to reject reforms or employ them to their own benefit. However, this picture is not accurate. The main problem of reforms lies not as much in 'social resistance' as in the confusion and uncertainty of anticipations when reforms fail to generate transparent and lasting signals, enabling actors to anticipate the most likely course of events. In this respect, any political attempts to reverse the course of reforms, essentially delay the moment when a coherent institutional order can be attained.

Another problem in such transformation lies in the fragmentation of the systemic change, which often results in neglecting important segments that affect individual choices and strategies. In

² Hellman, Joel S. 1998. *Winners Take All: The Politics of Partial Reform in Postcommunist Transitions*. "World Politics", 50, January: 203–34.

³ Federowicz, Michal. 2000. *Anticipated Institutions: the Power of Path-finding Explanations*. In: *Democratic and Capitalist Transitions in Eastern Europe*, M. Dobry (red.), Dordrecht, Boston, London: Kluwer Academic Publishers.

this respect, the ‘integrity of the social experience’ remains a good guideline. Economic and social agents always consider the resulting outcome of the existing institutional order regardless of which segments send the most powerful signals, whether market-oriented or political. The excessive mutual penetration between institutions belonging to different orders cannot be solved without a very broad range of complementary reformist actions. Otherwise the *discrepancy between individual expectations instilled by distortions in the existing institutional order may essentially impede the pace of change*.

Summing up, the core problem of systemic change in the face of inevitable mutual penetration of institutions originating from different orders is to find a way to ensure constant efforts aimed at *achieving integrity* of the institutional order, encompassing the entire social experience of systemic important. Without such a distinctive link which connects the requirements of democratic system, basic economic institutions, and culture of the society, a real consolidation of the institutional order is hardly imaginable even if certain recognised formal criteria for consolidation are fulfilled.

Basic Segments of the Change, their Complementarity and the Role of Civil Society

Inclusion of political aspects in the discussion should not overshadow the importance of purely economic aspects. Despite being entangled into politics, they remain in the foreground and are the main and the most visible determinant of the economic order. The essential pillars of an analysis which tackles systemic change should ensure a balance between the economic sphere and other spheres. On the other hand, those pillars should be general enough to incorporate the whole range of systemic issues into a relatively simple pattern of analysis but, on the other hand, open enough to detailed problems to identify ‘sensitive spots’ of the fledgling institutional order and reveal their broader context and links to other components of the analysis.

The tension triggered by the mutual permeation of different orders affects all institutional segments. It can be described as a struggle for institutions at the cognitive and normative levels. To a large extent, this game is played on a micro scale, penetrating all spheres of public life. However, its outcome is determined by the *communication* between the micro and macro levels. It is not the case that the micro level autonomously generates and controls the outcome of the game, producing new institutions or transforming or reinforcing the old ones. It is the macro level that plays the decisive role in the game even though it does not single-handedly control its outcome. The social embeddedness of actually functioning institutions manifests itself in good communication between the systemic level and the actors operating on a micro scale. Communication between these two levels is an essential precondition *for integrity of the order*.

If the institutional order is disrupted and institutions from different backgrounds permeate one another, signals communicated to the economic players from the macro level are ambiguous. Actors operating on a micro scale use such lack of unambiguity at the macro level to their own ends and reinterpret it to their own benefit. However, actors at the macro level also use ambiguity for their own particular purposes. If the elements of this game are to be analytically structured, we must identify essential institutional segments within which transformations occur.

The experience of post-communist transformations shows that the game is not played between comprehensive and relatively coherent ‘social projects’ with somewhat contradictory agendas (e.g. a liberal project versus a social democratic project). Rather, the game is played between fairly fluctuant interest groups anchored both at the macro and at the micro level. Those groups try to adapt fragments of various ‘social projects’ to satisfy their own interests. Hence, an analysis of this process cannot be based on mapping idealised ‘projects’ originating from different orders but it should not settle on mapping the interest groups as they are constantly recomposed.

Looking for analogy with the school of 'Variety of Capitalism' (VoC),⁴ we can identify the essential segments which impact both the economic activity and the creation of systemic boundaries in the economy, putting it in a much broader context of *power*. Identification of such segments allowed the VoC school to connect fairly distant pieces of a broad and complex institutional framework for economic life in a country. On the one hand, an institutional framework influences the way actors perceive external stimuli and, on the other hand, it determines the adaptive capability of the system.

The VoC analogy is also convenient in the sense that it provides a theoretical framework for matching the analysis of post-communist capitalism with practices of the most advanced economies. Such analyses are a real source of inspiration for many detailed institutional solutions and provide an ever stronger European and international context. Meanwhile, the variety of contemporary capitalism juxtaposed with the surviving features of 'real communism' provides the most vivid context to accentuate the tension between the old and the new order in the fledgling capitalisms in Central and Eastern Europe. This confrontation with the past is made continuously on a micro scale and at the highest levels of power. Given that the institutional transformations after communism are much deeper and broader, the analytical framework must encompass a much broader context of public life than the VoC approach has done so far. In order to maintain clarity, the institutional segments under review will be fairly broad, but, as mentioned earlier, they must also allow easy itemisation of their detailed areas to narrow down the field of investigation while indicating their precise position in the structure.

The subdivision into institutional segments is made to take account of essential aspects of economic analysis and embed them in a specific political context which significantly influences the shaping of the economic order while being transformed in the course of the fairly uneven democratisation process. Thus, the four segments under review concern A) macroeconomic policy, B) microeconomic perspective, C) the state as an institutional cluster pressurised by politics and the economy, and D) civil society as a pivotal segment in a gradually maturing democracy. Certainly, the proposed pattern is not the only possible one and can be disputed. It might turn out, for instance, that certain detailed questions should be accentuated separately while there is room for them in the general pattern of four segments listed above. In a sense, the presentation of yet another institutional segment, i.e. that of knowledge, education and information, invites such dispute. The latter segment has been added because of its special and ever increasing role in the evolution of information societies. Leading theses can be formulated in each of these institutional segments. Taken together, they will guide further course of investigation and public debate, stemming from *the attempts to attain integrity of order*.

Macroeconomic Policy

Macroeconomic policy is a set of basic instruments influencing the economic balance and affecting the long-term dynamics of economic processes in a country. However, the essential thesis concerning the macroeconomic policy as a separate element of order goes beyond that, stating that macroeconomic policy, apart from having a multifaceted financial impact, plays the role of a social institution *tout cour*, which means that it serves as an important link in *coordinating* individual actions, combining the systemic level with micro scale behaviours, and its impact is not purely financial. This happens regardless of intentions which drive decision making in macroeconomy. The importance of economic policy as a social institution is expressed not only in the content of specific decisions that are part of it but also, most prominently, in how it is perceived by economic agents (from financial markets through manufacturers to households). This, in turn, depends on internal coherence or, rather, the degree of incoherence in the macroeconomic policy, on its general direction, relationships between declarations and the resultant pol-

⁴ Hall, Peter A., David Soskice, (eds.). 2001. *Variety of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford: Oxford University Press.

icy vector (as seen by market participants), selection of instruments, stability (or, rather, the degree of instability), degree of predictability and day-to-day decision-making. All these aspects determine the nature of *communication* between the macro and the micro levels and influence strategies adopted by economic agents. As a result of certain strategies adopted by those agents, these aspects influence the leeway in macroeconomic decisions.

The importance of economic policy as a social institution is that it has a powerful influence on agents' expectations which depend not only on current political decisions but also on the socially embedded experience from the past. On this basis agents try to infer the anticipated scope of future macroeconomic decisions. The issue of 'anticipated inflation', a notion which is well-known in economic analysis, is a good example in a narrow albeit important sense. High inflation expectations, acting as an intermediary between macroeconomic decisions and market response, are probably the essential factor causing the so-called 'rigidity of inflation'. While the impact of this rigidity on the dynamics of inflation cannot be easily assessed, high inflation expectations can be counteracted in hardly any other way except a stable monetary policy.

In fact, analogous expectations of microscale actors (i.e. entrepreneurs, employees, consumers, owners, managers, experts, specialists and all microscale decision makers), concern not only inflation as such but any aspects of economic policy which may affect individual decisions. All aspects of macro policy mesh with the socially embedded experience in a given range of problems and jointly influence the micro strategies or abandonment of certain strategies which actors deem unrealistic (e.g. decisions to discontinue an investment, to accept no new hires, to abandon a new area of activity).

The entire arsenal of notions developed by various institutional analyses can be applied here. Macroeconomic policy does not only influence the likelihood of micro choices but, partially, also the perception of the surrounding world and the range of opportunities in an actual choice situation. And, above all, it influences the time frame for sensible expectations and resulting actions.

It is worthwhile mentioning the general guidelines for macroeconomic policy which arise from the experience of frail stability in the past decades as well as from the quest for new ideological foundation for a stable macroeconomic policy and the growing awareness of its fundamental importance for good social communication, an essential element of economic growth:

- stability through constrained discretion,
- credibility through sound, long-term policies,
- credibility through maximum transparency,
- credibility through making previous pre-commitments and commitments⁵.

⁵ The set of principles quoted here was developed by a think tank of UK's Labour Party soon after it came to power in 1997 but it has a broader application, not necessarily associated with a specific political grouping. There are many similarities between these principles and the practice of FED monetary policies in the USA. For a fuller picture, we quote the original principles with excerpts from the discussion: '1) the principle of stability through constrained discretion (...) to embody the pro-stability but post-monetarist intellectual consensus upon which modern macroeconomic policymaking is based. (...) stability and low inflation is a necessary condition for achieving sustaining high and stable levels of growth and employment, but achieving stability requires the discretionary ability for the macroeconomic policy to respond flexibly to different economic shocks – constrained, of course, by the need to meet the low inflation objective or target over time. (...) 2) the principle of credibility through sound, long-term policies: in a world of rapidly mobile capital, governments can have policy credibility *and* maintain constrained policy discretion if they pursue, and are seen to be pursuing, monetary and fiscal policies which are well understood and sustainable over the long term and where problems are spotted and tackled promptly rather than disguised, while the government clings to intermediate indicators to prop up credibility. (...) 3) the principle of credibility through the maximum transparency: the greater the degree of transparency about the government's objectives, and the reasons why decisions are taken, the more information about outcomes that is published as a matter of routine, the less likely it is that investors will be suspicious of the government's intentions, the greater the flexibility of policy to react to real crisis and the easier it is to build a consensus for difficult decisions. (...) 4) the principle of credibility through pre-commitment: the more institutional arrangements can demonstrate that policy is truly trying to achieve its declared

A macroeconomic policy is not just a set of purely economic instruments which can partially control some parameters of the equilibrium. In the light of increasing openness in the economy and, consequently, the expanding choices faced by individual actors, this role is considerably diminished. On the other hand, macroeconomic policy has transformed into a subtle network of expectations where market agents watch one another's moves. Players who are most carefully watched are those who can influence systemic decisions and who are located in the government or corresponding central agencies. Their decisions (or lack thereof) most decisively influence long-term strategies or enforce a shorter time horizon. Apart from the restoration and maintenance of economic stability (which is important from the economic perspective), the long-term credibility and predictability of macroeconomic policy becomes crucial. The social perception of all macroeconomic debates and decisions, particularly among opinion leaders, crucially influences the effectiveness of decisions. In this aspect, the implementation of macroeconomic policies as *social institutions* is only partially formalised and can never be formalised fully. Nevertheless, it determines the essence of such policies and influences the room for manoeuvre for decisions which are to be taken.

The credibility gap as a macroeconomic policy problem, known for many years, stems mainly from excessive discretion of governmental decisions in the earlier period after the Second World War. As noticed by E. Balls,⁶ monetarism professed by Friedman and his followers did not arise from purely empirical observations or from a dogma, which it is too easily accused of. More than anything else, monetarism was a response to excessively discretionary macroeconomic policies carried out by post-war governments which ruthlessly subordinated macroeconomic decisions to their current political agendas, no matter which part of the political spectrum they came from. In this sense, the theoretical dispute between contemporary neo-Keynesianists and contemporary monetarists is not at the core of the problem. The core problem stems from the contradiction between the credibility of macroeconomic policy and the discretionary changes which are made to accommodate current political needs. The present question about a more restrictive or more expansive monetary policy is all-too-often pressurised by short- and medium-term political calculations within the electoral cycle. The participants of the market game have realised that, which makes it even more difficult for modern governments to win credibility. Moreover, any factors which undermine the government's credibility also shrink the time horizon for micro strategies adopted by economic agents, which may, indirectly, encourage destabilisation of the macroeconomic equilibrium and, consequently, narrow down the governments' room for manoeuvre.

After decades of excessively discretionary rule governments now struggle to win credibility, in many a case quite successfully.⁷ At least partial un-blocking of the society's institutional resources may be anchored in a stable and predictable macroeconomic policy and the restrictive nature of that policy may become a trigger for new initiatives and institutional modifications.

The credibility gap or even credibility deficit is among the essential problems of post-communist capitalism. In the past, before 1989, discretionality of economic policies pursued by the government and the party had no parallels on the western side of the iron curtain. Therefore, macroeconomic policy after 1989 faced the challenge of not only restoring the narrowly defined

objectives, and the more difficult the objectives, the more the public and investors will believe that decisions are being taken for sound long-term reasons.' (Balls, Edward. 1997. *Open Macroeconomics in an Open Economy*. Centre for Economic Performance, Occasional Paper No.13, November. pp. 4–13).

⁶ Balls, Edward. 1997. *Open Macroeconomics in an Open Economy*. Centre for Economic Performance, Occasional Paper No.13, November.

⁷ Hancké, Bob. 2003. Revisiting the French Model: Coordination and restructuring in French Industry. In: *Corporate Governance in a Changing Political and Economic Environment: Trajectories of Institutional Change*, M. Federowicz, R. Aguilera (eds.), Houndmills, New York: Palgrave Macmillan: 195–219; Iversen, Torben. 1996. Power, Flexibility and the Breakdown of Centralized Wage Bargaining: the case of Denmark and Sweden in comparative perspective. "Comparative Politics" 28 (July): 399–436.

economic stability but also the social perception of stability and readiness to undertake longer-term strategies. However, the current credibility gap seems to originate not as much from the pre-1989 experience as from the subsequent continuous struggles for ad hoc macroeconomic decisions at the highest levels of power. This struggle seems to ignore social communication, an aspect which is inherently present in all macroeconomic decisions, the decision making processes and the rhetoric of public debates. As a result, the struggle to achieve short-term political goals increases the uncertainty of microscale actors and the gap of government credibility, thus reducing the freedom of decision making on the macro level.

The microeconomic perspective

The microeconomic perspective defines another, very broad segment of the institutional order. Its complexity very clearly demonstrates how difficult it is to achieve integrity within an institutional order. The list of economic institutions which set the framework for business is very long and affects nearly all aspects of economic activity. The main thesis describing the importance of this segment becomes clear when juxtaposed with macroeconomy and, on the other hand, with the ideal market model. While the content and implementation of macroeconomic policies determine the general framework for economic activity, institutions which operate in a microeconomic perspective directly filter market stimuli and influence the relations between market agents, thus determining the distance from real-life relationships and the idealised idea of 'a market where all players are equal and subjected to nameless competitive pressures.' In this respect, we can directly refer to the systematisation proposed by the VoC approach. Among the most important areas of this segment are financial markets and institutional solutions which determine accessibility of funding and terms of financing for business. Notably, what counts in economic practice is not only the formal institutions which regulate financial markets but also many informal but sustainable practices as well as interpretations of law which affect the accessibility of funding for companies and, in many a case, are a source of inequalities.

In this context, the post-communist transformation has had, and still has, a very inconsistent institutional environment for business agents. As a result, some institutions and practices are in contradiction to others. In specific cases when contradictory elements of the order are confronted, the stronger ones i.e. the ones more susceptible to informal persuasion of influential power centres, are the victorious ones. This does not mean that certain typical institutional solutions of capitalism, even if well formulated, have not formed to determine the operating framework for financial markets. Indeed, they have come into being and have played a positive role. However, they have not prevented significant transfers of public resources which remained under discretionary control of politicians. The sheer size of those transfers considerably distorts market relations. The main dilemma does not arise from purely theoretical deliberations on whether or not the current status quo conforms to the 'market ideal'. The dilemma consists in the fact that hard-to-control, non-transparent transfers do not provide *any coordinating mechanism*, whether market-driven or complementary, since they are not based on any broader vision of economic policy and economic order. Thus, such transfers seriously *disintegrate* the existing order and make it transitory.

Another type of institutions which determine the microeconomic perspective is related to ownership rights. It was beyond any doubt that the new economic order had to restore ownership rights and practical steps had to focus on privatisation. However, the formally restored respect for private ownership and formal privatisation were not sufficient to create a genuine foundation for the economic order. The volatile political aura around privatisation, subjected to current political agendas and the struggle for influence in privatisation began to undermine the legal foundations and to dampen the initial social impetus of bottom-up economic activity which tried to fill the formally created framework. Apart from the early period of reforms, there was no strong and firm political will to establish transparent institutional underpinnings for individual economic activity, (as it was the case e.g. in post-war Germany with the implementation of

Böhm's conception of *Privatrechtsgesellschaft*⁸). In post communist countries, legal guarantees of economic freedoms seemed stronger in early 1990s than at the end of the decade or at the beginning of the 21st century. There are many symptoms indicating a distortion of the institutional order and, consequently, a serious disruption of market mechanisms. The legislative process is an important cause of this distortion – it is not sufficiently subordinated to the overall vision of the institutional order based on invariable respect for private ownership, it is also too transient (albeit with some important positive exceptions), not sufficiently transparent and not oriented towards public confrontation of conflicting interests. Moreover, the legislative process is not meticulous enough in eliminating gaps and inconsistencies. Also, the inadequacy of the judicial system has undermined the general principle of universal and homogenous rule of law in the context of surging economic activity. This has opened the way (or has never closed it) to political pressures and selective application of laws (with sometimes contradictory and sometimes absurd provisions) in the political struggle for economic influence. For instance, the inconsistent handling of businesses by fiscal authorities and public prosecution is just one specific example indicating distortions in the institutional order. Discretionary powers exercised by tax authorities undermine the respect for private ownership and, from an economic point of view, boost the transactional costs.

The privatisation as such has brought significant benefits but was also burdened with an important flaw. What was missing in the vision was a broad awareness that privatisation should ultimately lead to a healthy corporate governance. The time needed to achieve such governance can be used as a measure of effectiveness (rather than, e.g. the time needed for nominal transfer of ownership titles or the privatisation proceeds received by the state treasury). Meanwhile, politically controlled and not-quite-transparent decision-making prolonged the time needed for the streamlining of governance structures with their informal influences. Moreover, during the initial period privatisation efforts did not go against the spontaneous bottom-up expansion of the private sector and even facilitated this expansion. However, at the later stages the large corporate sector, whether privatised or not, began to supersede small businesses and to obstruct channels enabling its growth. The strengthening of smaller economic activity was not in the interest of many politicians, who skilfully juggled the moods and sentiments of the public, thus gaining time to build the economic foundation for their political groupings while slowing down the intensity of privatisation. Again, political controls which were formally guaranteed within the political system turned out to be inadequate, failing to promote the politicians who consistently tried to reinforce the foundations of the new order.

Further components of the microeconomic institutional perspective include industrial relations (capital vs. labour or, rather, employers vs. employees). Notably, this segment is an inherent part of the institutional environment within which economic agents operate. This component is of special importance in the Polish case because the very influential Solidarity social movement (1980–1981) took the organisational form of a trade union. Thus, the Polish debate about industrial relations is genuinely different from its eastern or western counterparts. Yet, it has not avoided the temptation of ready-to-use institutional patterns and easy transplantations onto the country's social and economic context. As a result, the national debate did not confront the two perspectives which, in practice, decide about the real shape of this segment. One of them is the perspective of constantly evolving collective identity, especially trade unions, and the other is the perspective of market demands with all its distortions, political dependencies and black economy (particularly visible on the labour market with its local and regional singularities).

This is related to the specific issue of training at all levels of employment. This issue may turn out to be very significant in restoring institutional resources in the contemporary competitive

⁸ Wohlgemuth, Michael. 2001. The Present Relevance of "Ordnungstheorie" for the Politics and Economics of Social Order. In: Institutional Economics in France and Germany, German Ordoliberalism versus French Regulation School, A. Labrousse, J-D. Weisz (red.), Berlin, Heidelberg, New York: Springer: 200–243.

framework. The picture of institutional order in most advanced high-tech economies described in VoC studies shows that there is a great diversity of institutional solutions which are intended to facilitate absorption of new technologies in business and to stimulate new applications. In post-communist countries this issue is tangled into the context of much more profound transformations which do not only include employee training but encompass organisations and internal corporate order as well as the entire sphere of education at all levels which in itself is undergoing profound transformations. Similarly, the more complex problem of innovative economy or innovative businesses is interconnected with multiple elements of the order and cannot be solved at the level of individual economic agents.

Innovativeness in business represents a subject of separate research and, again, the broad VoC experience shows that countries must develop their own publicly controlled rules to integrate the system and match various types of activities, partly market-based and partly non-market-based. In advanced economies there is an entire network of institutional connections, strategic alliances and collaborative projects in selected market segments, special credit lines or policies in higher education. Examples of well-functioning systems show that disparate reform-oriented actions, individual legal acts or individual organisational activities are unable to play a significant role despite their potential positive outcome for specific companies. Certainly, it is not possible to transform former research structures, whether inside or outside enterprises, into a modern innovation infrastructure. Innovativeness is also related to the question of networking and so-called innovative networks, either supported with shared capital or based on long-term contracts, but in both cases supported with lasting personal relationships focused on market success. However, it is not the case that the existing informal networks, inherited from a different economic system, can be easily transformed into creative market-oriented networks. The outcome of this evolution depends largely on the institutional environment, a consistent macro-economic policy being part of this environment.

The State

The state is another institutional segment of the existing order. When analysing the architecture of economic order, one should stress an important change in the perceived role of the state. In traditional economic analyses the state is usually shown in a dichotomy, in opposition to the market. The market and the state are two opposing orders with contradicting influences on economic agents. The key platform of dispute is defined by these questions: should the state counteract and is it capable of counteracting market inefficiencies and, vice versa, should the market replace the state which is, in many respects, imperfect and is the market capable of replacing the state? Regardless of attitudes adopted in this dispute, the state is implicitly treated as the economic ‘superactor’ which more or less strongly integrates the market processes by either diminishing its negative impacts, distorting or weakening them or even eradicating its positive influence.

Meanwhile, the state vs. market opposition does not reflect the core of the problem which focuses on the role of the state in the economic order and in economic transition. The platform of this traditional dispute certainly holds while the state continues to be an economic superactor, giving rise to controversies. Nevertheless, this perspective shows only one aspect of interactions between the state and the economy and will not help us to understand the mechanisms and the dynamics of economic order.

Firstly, the role of the state in stimulating supply has been increasing for some time. While this role may distort market relationships, it essentially moves the state further away from direct relations between economic agents and eliminates its role as a ‘superactor’, while turning it into a ‘latent supporter’ of a selected group of economic agents. However, in contemporary economic systems, actions which have a universal impact and which supply new tools to all economic agents play a more important role and are more effective in the long run. Such actions are in conformity with the market system while the state withdraws from its role of an economic

agent. Let us refer to the French example of departing from dirigisme in favour of empowering companies and providing them with necessary resources (not financial albeit with measurable market value) to reconstruct their own strategies.⁹ Another activity which fits into the supply-stimulating policy is privatisation but this is not the only activity of this kind. Such actions generally involve a large-scale policy aimed at building new institutional solutions where the state is no longer involved: solutions which may help independent agents to overcome their internal difficulties. Such activities concentrate on a variety of issues, from internal conflicts (often culture-dependent), through mobilisation of local actors to broadly-defined education and its links with business needs. Such institutions are more easily and successfully absorbed by businesses when they are more strongly market-oriented.

Secondly, in a broader research perspective, the state occupies a central position in the merging and reproduction of institutional resources without which businesses would face problems in their market-oriented operations. The state does not act as a coordinator of market behaviours (or its role in this respect is decreasing) but undoubtedly acts as a *coordinator of the institutional adjustment process*. Withdrawal from the previous role reinforces the state as a guardian of the existing order. However, the state is much more than a guardian, inevitably becoming an animator of institutional adjustments and actively responding to a continuously changing environment. The economic order of capitalism undergoes constant transformations because of the emergence of new technologies, new markets and conflict areas, sometimes significantly transforming the status quo. Hence, the state must undertake new intellectual initiatives to maintain the institutional order and adjust its basic framework to the new needs. Nevertheless, the state is not a monolith and undergoes transformations itself. However, its transformations are neither evenly spread over time nor across various areas of activity. This process gives rise to economic and political tensions and crises.

By definition, the state combines the economy with politics and subjects those relations to various controls. In practice, those controlling procedures are often blurred and ineffective, undermining the ability of the state to animate and coordinate further institutional adjustments.

The research perspective defined in this way calls for analytical decomposition of the state. On the one hand, it represents continuity and faces the problem of internal coherence but, on the other hand, it must clearly separate different spheres and aspects of activity. Montesquieu's fundamental subdivision of power into legislative, executive and judiciary by no means exhausts the institutional complexity of the state as an entity.

The modern state is a cluster of highly varied social institutions which do not only operate within different fields but also use different logics and, to some extent, dissimilar language. For the sake of accuracy let us note that the macroeconomic policy segment, discussed earlier, is undoubtedly part of the state with varied legislative legitimisation and not necessarily uniform in organisational aspects. In this pattern of analysis it has been singled out as a separate institutional segment only because of its special role in replicating the economic order. In fact, there are many institutional areas within the state which have an essential influence on the economic behaviour and relationships and which, in themselves, acquire the characteristics of social institutions. The budget law may be an example of a 'collective' institution which originates between the executive and the legislative power and strongly influences the operating framework of business entities although its provisions do not directly refer to specific business entities. A tax policy (or lack of thereof) is another example: despite government's intentions, it lives a life of its own and is carefully monitored by actors at the micro level. The degree of universality in formal and practically applicable rules influences the fiscal system in its role as a social institu-

⁹ Hancké, Bob. 2003. Revisiting the French Model: Coordination and restructuring in French Industry. W: Corporate Governance in a Changing Political and Economic Environment: Trajectories of Institutional Change, M. Fedorowicz, R. Aguilera (eds.), Houndmills, New York: Palgrave Macmillan: 195–219; Levy, Jonah. 1999. Toqueville's Revenge: Dilemmas of Institutional Reform in Post-dirigiste France. Cambridge: Harvard University Press.

tion. In practice, actions taken by tax authorities, even if in conformity with the letter of law, evolve into an informal social institution (because of the existing inconsistent interpretations and selective application), strongly influencing actors' anticipations and increasing the uncertainty within the institutional environment of business. Similarly, in the industrial policy, government's relatively incoherent and particular interventions into specific businesses or narrow segments of the economy may turn into an informal social institution. This happens when a significant proportion of economic actors begin to *anticipate* similar interventions in future and adjust their strategies accordingly.

The judicial system and, more broadly, the law enforcement system is another part of the institutional cluster which co-constitutes the state. It implies a range of social behaviours. When a fairly transparent and consistent system of law enforcement is in place, social behaviour is aimed at partially lifting the burden off formal judiciary institutions by enforcing law-abiding behaviours in direct relations between actors (self-enforcement). The latter is beyond the state but strongly depends on its actions because effective law enforcement decides if actors' pressure for self-enforcement will become embedded in informal social institutions and will reinforce formally operating institutions.

The examples of institutions which make up the state in the broad sense include both formal and non-formalised entities. One important statement which describes the state of today can be worded as follows: *a specific type of policy only partially employs formal institutions but is partially based on informal institutions, some of which are animated by the state*. Moreover, informal institutions may either undermine or reinforce the formalised part of the institutional order and their role can only be determined in the broader context of such an order.

The political games played within the state affect not only the legislative process, contrary to the belief that law making and law enforcement are designed to focus the activity of the state and define its tools. *The political games are largely aimed to control the informal social institutions where certain social anticipations can be shaped* and then selectively quoted. This can be done to promote the interests of various groups of players, partially masking the interests behind specific policy measures. The state as a conglomerate of institutions must, by definition, put the political games into a formal framework and ensure their transparency. However, such efforts are subjected to pressures from various interest groups as a result of which *accountability* is often pushed away. Hence, credibility outlines one of the pivotal research problems in relation to the state and its particular institutions.

Summing up, while the traditional state-market dichotomy does not lose all of its significance, the relationship between a current policy in a particular area and the behaviours displayed by economic entities can be described in more detail after the 'black box' of the state has been opened. Questions which help to open this box concern the interests behind specific decisions, legislative processes or specific interpretations of the existing framework. It is also necessary to identify the social institutions and 'mental models' that they rely on, considering the strategies undertaken by politicians, officials, business agents and all other social agencies which are affected by specific policies and decision-making. By definition, the state is influenced by politics and the economy alike. These influences can be structured and identified only if the state is viewed as a complex cluster of social institutions, whether formal or informal, and if identification encompasses not only actors but also social institutions involved in the decision making and policy making. Regardless of all current policy dilemmas, and its involvement in the economy (as a 'superactor'), the state remains, above all, a central collective actor which merges and reproduces institutional resources without which any business operations (including market operations) would become problematic. At the same time, the state is a cluster of institutions which undergo changes.

Civil Society

Civil society and 'information order' are parts of the last, fourth main institutional segment affecting the transformations and adjustments within the institutional order. Their links with the economic order are probably least obvious and least explored. However, significant empirical observations in this area have been carried out. According to those observations, the activity and stability of civic structures stimulates not only economic growth¹⁰ but also, more broadly, the consolidation of the new economic order. This became more distinct and easier to observe in the context of post-communist transitions.¹¹ The essential mechanism of influence between the *civic structures* and the economic order is transparent: it involves *partial reduction of the phenomenon known as rent-seeking*. Interestingly, this result occurs regardless of any ideological involvement of the relevant actors, mainly because specific issues are brought into daylight and public consideration. Consequently, intentionally or not, the credibility of the state and legitimisation of specific decisions is constantly debated. In this sense, the development of civic structures in a society emerging from a mesh of dependencies shaped under the communist regime concerns the key problem of the *restitution of the state*. Hence, this problem goes considerably beyond Putnam's idea of civic society.

The theoretical anchor of the role played by *civic society in the making of the institutional order* stems from three fairly obvious assumptions concerning the state. Firstly, the state is a central link in shaping institutions which determine the essential rules of the economic and political order. Secondly, the state, as a cluster of institutions, is not neutral *vis a vis* the type of political environment. The nature of state institutions is different in a democracy and in a non-democratic environment. In part, the institutional clusters are different. Hence, democratisation of the political system, if it actually occurs, entails important changes in the state. Thirdly, in a post-communist transformation we are dealing with state institutions which have been significantly weakened under the previous regime and have not yet received effective control mechanisms from the new democratic system. At the same time, the market foundations established by a state in transition are less perfect than those of mature systems. This is because significant disruptions to market dealings are intentionally built into specific institutional solutions as a result of struggles between influential interest groups. Imperfections of the state and of the market mutually enhance one another. A weak state, susceptible to pressures from interest groups, establishes and protects distorted markets which, in turn, are more likely to fall victim to political influences than to generate autonomous competitive pressure.

There are two possible escapes from the vicious circle of a 'detrimental stagnant equilibrium': external international pressure to improve the standards of democracy, state and market institutions, as well as internal pressure to limit pathological phenomena such as rent-seeking. The latter phenomenon has become one of the most typical problems of the final phases of communism, easily aggravating in the face of weak controls from formalised institutions of the state. Later on, rent-seeking tried to cope more effectively with the fairly inefficient democratic controls and the very limited market pressures, and occurred mostly at the intersection of a distorted market and a distorted state. This phenomenon distorts economic relations and leads to illegitimate social inequalities. Thus, the ability to reduce rent-seeking has gained a systemic dimension. The role of civic society in shaping the institutional order originates exactly from the varied internal pressures to limit those destructive phenomena, partially supplementing and indirectly boosting formal controls. Meanwhile, it is the strength of the internal controlling mechanisms that determines the effectiveness of external pressures.

¹⁰ Putnam, Robert D. 1993. *Making Democracy Work: Civic traditions in modern Italy*. Princeton: Princeton University Press.

¹¹ Åslund, Anders. 1996. *Reform versus "Rent-Seeking" in Russia's Economic Transformation*. "Transition", January 26; Åslund, Anders. 1996. "Possible Future Directions for Economies in Transition". Konferencja "Economic Transformation and Reform of the State", National Research Council, Washington, November.

The democratisation of a political system which has become characteristic of post-communist capitalism essentially affects the making of the market order. As the society emancipates itself from dependencies endured in the previous regime, the essential economic freedoms cannot be guaranteed if the essential civic liberties are not guaranteed, either. As mentioned earlier, some authors claimed that parallel political transformations weakened the economic transition. However, they forgot that the pressure onto essential transformation of the state would not be triggered until essential civic liberties have been guaranteed. And it is the weaknesses of the state that largely leads to market failures.

Based on the agency theory, Przeworski¹² attempts to reconstruct the pattern of state-market relationships and then, using empirical experience, goes beyond the traditional futile dispute between neoliberals and their adversaries. He makes this attempt for advanced economies with an established democratic system. However, his analysis is also inspiring for the post-communist 'detrimental equilibrium' and helps to systematise the problem of a 'double political scene' in post-communist democracies¹³ or a 'premature consolidation'¹⁴. It is also helpful in finding the place of civic society in the making of economic order.

The essential dependencies within the state can be interpreted within the principal-agent framework of the agency theory. The principal gives orders to the agent but has limited options to enforce the terms of implementation whereas the agent has an information advantage over the principal. Moreover, the interests of a principal and an agent hardly ever overlap. The principal-agent chain reflects the main outline of decision-making processes which shape policies in specific parts of the economy. In particular, it may show how formally democratic institutions are blurred at subsequent levels of delegation, selectively adding additional interests which are beyond democratic controls to some extent. This phenomenon is important for the economic order because the state and, in particular, the government, has the authority to use legal measures to interfere into stimuli which influence economic agents.¹⁵ Przeworski also remarks that economic agents are at the same time citizens in a democracy and, as citizens, they act as principals *vis a vis* politicians who, together with administrators, influence the structure of dependencies in the economy. Empirical experience confirms the futility of the debate between those who support the withdrawal of the state from the economy and those who oppose this idea. In virtually any type of market economy the state shapes the institutional framework for business, exerting some influence over the structure of prices. Instead of a generalised dispute about involvement versus withdrawal, we need to draw attention to decision-making processes which shape specific fragmentary policies.

Going beyond Przeworski's observations one must draw attention to one essential problem, which is acute in post-communist democratisation but also observable, in milder forms, in established economies. The position of a *citizen* who, within the formal democratic framework, is assigned the role of a principal *vis a vis* politicians, is usually too weak to enforce the terms of authorisation from *politicians-agents*. Elections alone do not offer a sufficient guarantee.

This is where the civil society comes into play. On the one hand, the chain of principal-agent dependencies is sometimes longer than foreseen by formal procedures and, as mentioned earlier, may open a backdoor for better-placed actors at the expense of all others. Those particular channels are used by more influential interest groups. On the other hand, the role of the citizen

¹² Przeworski, Adam. 1996. "On the Design of the State: A Principal-Agent Perspective". Konferencja: "Economic Transformation and the Reform of the State", NRC, Washington, November.

¹³ Mokrzycki, Edmund, Andrzej Rychard, Andrzej Zybertowicz, (eds.). 2002. *Utracona dynamka? O niedojrzałości polskiej demokracji*. Warszawa: Wydawnictwo IFiS PAN.

¹⁴ Rychard, Andrzej. 1994. *Czy transformacja jest zakończona?*. „Transformacja Gospodarki”, Warszawa, Zeszyty IBnGR.

¹⁵ 'The role of the state is unique since the state sets the incentive structures among agents by exercising the legally qualified coercive power: mandating or prohibiting some actions by law and changing relative prices via the fiscal system.' (Przeworski, Adam. 1996. "On the Design of the State: A Principal-Agent Perspective". Konferencja: "Economic Transformation and the Reform of the State", NRC, Washington, November. p.5).

does not boil down to an occasional electoral act. Above all, democracy enables the organisation of additional civic structures and the *public flow of information, not necessarily aiming to achieve immediate political goals but potentially influencing the decision making within the state*. In fact, any principal-agent link offers room for democratic civic control exercised through access to and public spread of information.

This problem could be structured by using a separate notion of *information order*. The information order, encompassing the ‘fourth power’ but going further beyond, supplements the economic order and political order in the contemporary world and, perhaps, actually determines the nature of both. The quality of democracy is determined by the role of citizens and civic society in decision making and by the institutionally guaranteed competence to control the information order. Hence, the *position of the citizen* is the key to democratisation. When studying the outcomes of democratisation we must not confine ourselves to the monitoring of electoral procedures. We must also consider the extent to which active social actors in a civic society have guaranteed access to information at subsequent stages of decision-making and have the opportunity to influence society at large.¹⁶ The vast majority of citizens do not need to be interested in decision making at the macro level but should be systematically updated by active actors. This will allow citizens to reconstruct their own political ideas and develop electoral preferences.

The analytical approach represented here claims that, firstly, this role of civic society influences the shaping of the economic and political order and, following Åslund’s observations, perhaps also determines the ‘degree of imperfection’ in a country’s market in the long run. *The stronger the civic activities, the less distorted the market because this increases the transparency of formation and formalisation of the changing market institutions*. Secondly, particular business agents are by no means excluded from the list of active civic actors, even if they are profit-oriented and pursue their own economic interests. The nature of these activities, whether civic or for-profit, is not determined by their goal but by the mode of operation. Activities which are fully public and accompanied with publicly accessible information go beyond the narrow interests of a specific business agent and can be viewed as civic action. Thirdly, the *effectiveness of civic action largely depends on agents’ ability to force policymakers to make commitments regarding specific subjects*. *Civic action puts pressure on policymakers and revives the essential democratic controls* i.e. parliamentary opposition and electoral verification.

Notably, the catalogue of civic actions is not based on the formal status of those actors but on the way they act. One vivid example of an unusual civic action animated by private business is the ongoing regular review of government’s economic policies by specialised units of commercial banks. As part of their business strategy, banks are interested in sustainable macroeconomic stability. Nevertheless, their opinions are publicised on a regular basis, telling the public about current steps taken by the government. This practice has the characteristics of a civic social institution and considerably limits the room for informal and quasi-formal practices within political structures.

The state, as a cluster of institutions which, by definition, mediate between politics and the economy, is not only formally controlled by formal democratic institutions but is also subject to public scrutiny. The latter is significantly shaped by the prevailing ‘information order’ with its active opinion leaders and civic structures. In the long run, the adaptive capability of the economic system depends on the opportunities that citizens have in enforcing the authority granted to politicians.

¹⁶ Example of such analysis can be found in Leshchenko, N. 2002. “New Role for Civil Society: Theoretical and methodological considerations on the impact of civil society over the wider public”, First Edmund Mokrzycki Symposium “Binding Civil Society and Democracy East of Elbe”, WZB, UMK, CEU/CSS, IFiS PAN, Warszawa, September 27–28, mimeo.

The Political Role of Civil Society Organisations in Central and Eastern Europe

Various groups of civil society influence the formulation and implementation of policies, which implies that their interests and strategies contribute to policy outcomes. At present, many political scientists focus on corruption in their analyses of the subject.¹ The exertion of influence on state decisions is hereby seen as a negative factor. It is implied that actors without direct democratic legitimacy form a cartel of interests and replace democratically regulated and controlled decision-making processes with inside arrangements. Hellman and others speak in this context of “state capture”. In this concept, entrepreneurs take over political decision-making by corruption, i.e. by the buying of state decisions – at least in the area of economic policy.²

The participation of non-state actors in decision-making processes can however also be viewed in a positive light, as furthering civil society. For example, Stark/Bruszt in their analysis emphasise such positive effects of post-socialist transformation processes in Eastern and Central Europe, highlighting especially the integration of additional interest groups in decision-making processes, reduction of coordination problems and easing the load of regulatory functions of the state.³

Accordingly, the exertion of influence by non-state actors can only be evaluated on a case-by-case basis. In this paper an analysis of the role of non-state actors in policy-making in three post-socialist states, the Czech Republic, Poland and Russia, will be presented. Differing results between the countries and between different categories of actors will be explained with the help of (1) characteristics of the non-state actors involved, (2) their strategies of exerting influence and (3) actor constellations.

Relevant civil society organisations

In all of the three countries analysed in the present paper, the end of the socialist system led to a considerable change in the organisation of interest groups. On the one hand, there was a number of interests that had not existed or been organised before, on the other hand, already existing organisations had to restructure in order to perform new tasks in a new environment, and often they had to cope with a loss of legitimacy because of their close proximity to the old system. However, the situation of different interest groups aiming to influence policy-making varied largely between the post-socialist states.

State-organised *trade unions* had existed in all of the countries analysed. However, in Poland with Solidarność an independent counter-trade union had already been organised in the early 1980ies. In 1989, it became the main actor of system change. Trade union leader Lech Wałęsa became the Polish president. Solidarność formed the government. The former socialist trade union OPZZ survived the change of system as well. Both trade unions were present in the political system until 2001. OPZZ formed part of the government from 1993 to 1997; from 1997 to

¹ An overview of the current state of research and new literature on the topic is given by: Transparency International: Global Corruption Report 2001, Berlin 2001, pp.224–314; Susan Rose-Ackerman: Corruption and government. Causes, consequences, and reform, Cambridge 1999.

² Hellman, Joel S. / Schankerman, Mark: Intervention, corruption and state capture. The nexus between enterprises and the state, in: Economics of Transition 3/2000, pp.545–567 and Hellman, Joel S. / Jones, Geraint / Kaufmann, Daniel: “Seize the state, seize the day”. State capture, corruption, and influence in transition, World Bank Policy Research Working Paper 2444, Washington 2000 and Hellman, Joel S.: Winners take all. The politics of partial reform in postcommunist transition, in: World Politics 1/1998, pp.203–234.

³ Stark, David / Bruszt, László: Postsocialist pathways, Cambridge 1998, pp.109–136.

2001 it was once more the turn of *Solidarność*. However, during the 1990ies both trade unions lost support in the population and their total membership declined from 6 to just over 3 million. Trade unions were not represented any more in the parliament elected in 2001.⁴ While a trade union dualism was thus established in Poland, the successor organisation of the socialist trade union in the Czech Republic (*ČMKOS*) had no competition. It, too, had to struggle with the problem of declining membership.⁵ In the early 1990ies, councils were formed both in Poland and the Czech Republic that brought together trade unions, employers' organisations and representatives of state organs responsible for economic policy in order to discuss concepts of economic policy. However, this approach, known as tripartism, gave trade unions only little influence, as these committees had primarily an advisory function.⁶

In Russia, independent trade unions emerged in opposition to the state dominated socialist trade union in the early 1990ies. Unlike *Solidarność* in Poland, they did not attain nation-wide influence. They could organise a majority of workers only in the mining sector, while the successor organisation of the socialist trade union, still closely connected with the state and with employers, retained its presence in the entire Russian economy. However, both trade unions could not exert significant influence on economic policy-making processes. Only the mainly spontaneous miners' protests between 1989 and 1998 gave the trade unions some opportunities of consulting with state policy-makers. However, conflicts between both trade unions, a low degree of organisation and dependence on the management prevented permanent consultations outside of strike periods and thus a lasting participation in economic policy-making processes.⁷

While state trade unions and in the Polish case an alternative to the state trade union already existed under the socialist system, *entrepreneurs' unions* had to be organised from scratch after the end of socialism. As a first consequence, there arose a multitude of small, poorly organised unions in all the countries concerned. A lack of success on the one hand and a demand for consultancy services and a participation in state organised bodies on the other hand led to a certain degree of consolidation by the mid-1990ies. In the Czech Republic, a confederation of employers' and entrepreneurs' organisations (*KZPS*) was created, besides which there were half a dozen of independent economic unions of national significance. In Poland, a total of five nationwide unions established themselves, which however due to a lack of mutual coordination and differing interests did not exert significant influence on economic policy-making. In Russia, the *RSPP* became the central entrepreneurs' union. As the most influential Russian entrepreneurs represented their interests as individual actors, the influence of this union remained limited as well.⁸

⁴ Pańków, Włodzimierz / Gáciarz, Barbara: Industrial relations in Poland. From social partnership to enlightened paternalism?, in: Blazycza, George / Rapacki, Ryszard (ed.): Poland into the new millennium, Cheltenham 2001, pp.72–90; Pańków, Irena: The main actors on the political scene in Poland, in: Agh, Attila / Ilonszki, Gabriella (ed.): Parliaments and organised interests. The second steps, Budapest 1996, pp.130–146.

⁵ Myant, Martin / Smith, Simon: Czech trade unions in comparative perspective, in: European Journal of Industrial Relations 3/1999, pp.265–285.

⁶ Myant, Martin / Slocock, Brian / Smith, Simon: Tripartism in the Czech and Slovak Republics, in: Europe-Asia Studies 4/2000, pp.723–739; Ost, David: Illusory corporatism in Eastern Europe. Tripartism in the service of neoliberalism, in: Sisyphus 1998, pp.167–177; Mansfeldová, Zdenka: Sociální partnerství v České republice, in: Brokl, Lubomír u.a. (ed.): Reprezentace zájmů v politickém systému České republiky, Prague 1997, pp.99–150; Reutter, Werner: Tripartism without corporatism. Trade unions in Eastern and Central Europe, in: Agh, Attila / Ilonszki, Gabriella (ed.): Parliaments and organised interests. The second steps, Budapest 1996, pp.59–78; Orenstein, Mitchell: The Czech Tripartite Council and its contribution to social peace, in: *ibid.*, pp.173–189.

⁷ Clarke, Simon / Ashwin, Sarah / Dominelli, Lena (ed.): Russian Trade Unions and Industrial Relations in Transition, Basingstoke 2003; Pleines, Heiko: Down, out and forever desperate? The role of coal miners' protests in Russian politics, in: Harter, Stefanie / Easter, Gerald (ed.): Shaping the economic space in Russia, Aldershot 2000, pp.127–146; Cook, Linda: Trade unions in the new Russia, New York 1997.

⁸ Frye, Timothy: Capture or exchange? Business lobbying in Russia, in: Europe-Asia Studies 7/2002, pp.1017–1036; BDE: System polityczny rzeczywospolitej polskiej, Wrocław 2001, pp.104–110; Myant, Martin: Employers' interest representation in the Czech Republic, in: Journal of Communist Studies and Transition Politics 4/2000, pp.1–20;

Sectoral interest groups or individual entrepreneurs managed to exert influence on economic policy-making in various areas. In all three countries, an influential agriculture lobby survived the change of regimes and was in Poland⁹ and Russia supported by its own political party.¹⁰ In coal mining in Poland and in Russia a coalition of managing directors and sectoral trade unions succeeded in blocking state restructuring programmes and to mobilise increased state subventions until the end of the 1990ies.¹¹ Both in the Czech Republic and in Russia banks manipulated economic policy-making processes via corruption networks primarily in the area of privatisation, but lost their influence in the financial crises of 1997 and 1998, respectively.¹² In Russia oil and gas companies were able to influence economic policy as individual actors.¹³

While thus even traditional entrepreneurs' and employees' unions had to cope with organisational deficits and as a rule gained only limited access to economic policy-making processes, other national non-state actors were even less influential. Neither consumers' unions, nor ecological groups or representatives of other social groups, such as the unemployed or pensioners, acquired the organisational strength that would have turned them into relevant actors in economic policy in one of the countries under discussion in this paper.

However, **foreign actors** in some cases managed to gain considerable influence. In the first phase of post-socialist economic transformation, the International Monetary Fund and the World Bank laid down concepts of reform which they tried to implement above all with positive incentives in the form of consultancy services and preferential credit agreements. The World Trade Organisation (WTO) set certain conditions for membership, which mainly meant a liberalisation of foreign trade and the reduction of subventions. Last but not least, the European Union (EU) set the adoption of the *acquis communautaire*, its comprehensive body of rules and regulations for all policy areas, as a condition for joining and thus created heavy constraints for economic policy-making in Poland and the Czech Republic. Once the conditions for a credit from IWF/World Bank or future membership in WTO or EU were accepted, considerable inher-

McMenamin, Ian: How 'post-communist' are business interest associations in Poland?, Conference paper, BASEES annual conference, Cambridge 02. April 2000; Appel, Hilary / Gould, John: Identity politics and economic reform. Examining industry-state relations in the Czech and Slovak Republics, in: *Europe-Asia Studies* 1/2000, pp.111–131; Stykow, Petra: Staat, Verbände und Interessengruppen in der russischen Politik, in: Merkel, Wolfgang / Sandschneider, Eberhard (ed.): *Systemwechsel 4. Die Rolle von Verbänden in Transformationsprozessen*, Opladen 1999, pp.137–179; Jasiecki, Krzysztof: Organizacje pracodawców i przedsiębiorstw w Polsce, in: Wasilewski, Jacek (ed.): *Zbiorowi aktorzy polskiej polityki*, Warsaw 1997, pp.167–202; OECD: *The emergence of business associations and chambers in the economies in transition. Examples from the Czech Republic, Hungary, Poland and the Slovak Republic*, OECD Working Papers No. 58, Paris 1994.

⁹ The traditional peasants' party is the PSL. Since 2001 the conservative peasants' protest movement Samoobrona is represented in the national parliament as well.

¹⁰ Szczerbiak, Aleks: The Polish Peasant Party. A mass party in postcommunist Eastern Europe?, in: *East European Politics and Societies* 3/2002, pp.554–588; Serova, Evgenia V.: Actors in agro-food policy. Who shapes outcomes?, in: Segbers, Klaus (ed.): *Explaining post-Soviet patchworks*, Bd.1, Actors and sectors in Russia between accommodation and resistance, Aldershot 2001, pp.292–309; Myant, Martin: Employers' interest representation in the Czech Republic, in: *Journal of Communist Studies and Transition Politics* 4/2000, pp.1–20, here: pp.5–9; Blažek, Petr: *Reprezentace zemědělských zájmu v politickém systému České republiky. Ekonomiké (profesní) zájmové skupiny*, in: *Politologická revue* 1/2000, pp.22–38.

¹¹ Gadowska, Kaja: *Zjawisko klientelizmu polityczno-ekonomicznego*, Cracow 2002; Deppe, Rainer / Tatur, Melanie: *Rekonstitution und Marginalisierung. Transformationsprozesse und Gewerkschaften in Ungarn und Polen*, Frankfurt/M. 2002, pp.240–248; Pleines, Heiko: Down, out and forever desperate? The role of coal miners' protests in Russian politics, in: Harter, Stefanie / Easter, Gerald (ed.): *Shaping the economic space in Russia*, Aldershot 2000, pp.127–146.

¹² Appel, Hilary: Corruption and the collapse of the Czech transition miracle, in: *East European Politics and Societies* 3/2002, pp.528–553; Pleines, Heiko: Large-scale corruption and rent-seeking in the Russian banking sector, in: Ledeneva, Alena / Kurkchiyan, Marina (ed.): *Economic crime in Russia*, The Hague 2000, pp.191–207.

¹³ Pleines, Heiko: *Wirtschaftseliten und Politik im Rußland der Jelzin-Ära*, Münster 2003, pp.208–255; Kryukov, Valery: Adjustment to change. The case of the oil and gas industry, in: Harter, Stefanie / Easter, Gerald (ed.): *Shaping the economic space in Russia*, Aldershot 2000, pp.102–126.

ent necessities arose that substantially limited the room for manoeuvre of national actors, and consequently also the possibilities for the exertion of influence by national non-state actors on economic policy-making processes. This holds especially true for Poland and the Czech Republic because of their membership negotiations with the EU.

Strategies of exerting influence

Empirical research has shown a multitude of means of exerting influence on processes of political decision-making used by non-state actors. Table 1 gives an overview based on a number of empirical studies from OECD and East European countries.¹⁴ The different instruments of lobbying have been separated into four groups: (1) direct contacts with state actors – note the dividing line between legal forms of direct exertion of influence on state actors and illegal political corruption, (2) indirect influence via public opinion or (3) via the legal system and additionally (4) measures to increase capacities for action.

Table 1: How do economic actors try to influence state actors?

<p><i>Direct contacts with state actors:</i></p> <ul style="list-style-type: none"> • Personal contacts/advice; • Giving of information to state actors (testimonials, data/statistics, draft laws); • Cooperating with committees of legislation and executive; • Promoting loyal supporters to state positions; • Legal donations to parties and politicians; • Illegal donations to parties and politicians (political corruption). <p><i>Mobilisation of public opinion:</i></p> <ul style="list-style-type: none"> • Giving information to mass media (press releases, interviews, data/statistics); • Organising advertising campaigns; • Organising mass actions (demonstrations, boycotts, petitions). <p><i>Legal action:</i></p> <ul style="list-style-type: none"> • Law suits against state laws/regulations; • Law suits against state actors. <p><i>Increasing one's own capacities for action:</i></p> <ul style="list-style-type: none"> • Building a coalition with other actors; • Improving own financial situation; • Creating a mass organisation; • Creating a – formally independent – front organisation for specific tasks (e.g. apparently independent expert opinion, additional donations to state actors, radicalising public debate, mobilisation of further financial means).

In summary four possible strategies of exerting influence on policy-making can be identified, corresponding with four different patterns of interaction between economic and state actors.

¹⁴ Studies used are: Frye, Timothy: Capture or exchange? Business lobbying in Russia, in: *Europe-Asia Studies* 7/2002, pp.1017–1036, here: pp.1027–1028; Karpowicz, Ewa: Lobbying w wybranych krajach – zarys uwarunkowań prawnych i działań praktycznych, in: *Przedkład Sejmowy* 3/2000, pp.51–76; Peregodov, Sergej P. / Lapina, Natal'ja Ju. / Semenenko, Irina S.: *Gruppy interesov i rossijskoe gosudarstvo*, Moscow 1999, pp.214–255; Baumgartner, Frank R. / Leech, Beth L.: *Basic interests. The importance of groups in politics and in political science*, Princeton/NJ 1998, pp.152; Kollman, Ken: *Outside lobbying*, Princeton/NJ 1998, p.35; Ball, Alan R. / Millard, Frances: *Pressure politics in industrial societies*, Basingstoke 1986, pp.65–80.

- (1) Cooperation: exchange of information and opinions, coordination of policy measures.
- (2) Legal state capture: legal donations to state actors, promotion of loyal supporters to state offices, mobilisation of public opinion in order to monopolise influence on state decisions.
- (3) illegal state capture: illegal donations to state actors, political corruption.
- (4) Confrontation: mobilisation of public opinion and legal action to put pressure on state actors.

All four strategies were applied in post-socialist states in order to influence policy-making.

In **Poland**, the trade unions generally followed a legal capture strategy until 2001, above all by establishing their own actors in state decision-making bodies such as parliament and government at a prominent level. In the case of *Solidarność*, this strategy was the subject of internal controversy. In the first phase of participation in the government after 1989 very soon conflicting interests arose between the liberal reformers in the executive and the grass roots of the trade union, which as a social group was affected especially negatively by the consequences of reform. The growing rift between representatives of *Solidarność* in the executive and the trade union organisation led to a complete break, followed by *Solidarność* adopting a strategy of confrontation characterised by mass strikes, and a subsequent partial withdrawal of *Solidarność* from politics. *Solidarność* now pursued a (reluctant) strategy of cooperation within tripartism, while the rival trade union *OPZZ* formed part of the government. With the common list *AWS*, which was for the most part formed by *Solidarność*, *Solidarność* again entered into politics in 1997 and was once more able to realise a capture strategy, by influencing state policy as part of the government until 2001.¹⁵

The agriculture lobby and the coal mining industry in Poland primarily pursued a legal capture strategy with some illegal elements, which was based on informal networks and in the case of the agriculture lobby additionally on the representation of its interests by a political party. If the capture strategy did not bring about the desired effects, in both cases a temporary switch to a confrontation strategy of mass protests and strikes was possible.¹⁶ The Polish entrepreneurs' unions on the other hand all followed a professional strategy of cooperation, which closely followed Western examples.¹⁷

In the **Czech Republic** both trade union and entrepreneurs' unions backed a strategy of cooperation in the context of a tripartism with little influence.¹⁸ In the area of economic policy only the banks were able to pursue a successful capture strategy, as a result securing preferential treatment in the privatisation process via corruption networks and preventing efficient banking su-

¹⁵ A concise overview is given by: Deppe, Rainer / Tatur, Melanie: *Rekonstitution und Marginalisierung. Transformationsprozesse und Gewerkschaften in Ungarn und Polen*, Frankfurt/M. 2002, pp.221–240. See also: Kramer, Mark: *Collective protests and democratization in Poland 1989–1993. Was civil society really 'rebellious'?*, in: *Communist and Post-Communist Studies* 2/2002, pp.213–222; Panków, Irena: *Trade unions and politics*, in: Frenzel-Zagórska, Janina / Wasilewski, Jacek (ed.): *The second generation of democratic elites in Central and Eastern Europe*, Warsaw 2000, pp.249–270; Ekiert, Grzegorz / Kubik, Jan: *Collective protest in post-communist Poland 1989–1993. A research report*, in: *Communist and Post-Communist Studies* 2/1998, pp.91–118; Osa, Maryjane: *Contention and democracy. Labor protest in Poland 1989–1993*, in: *Communist and Post-Communist Studies* 1/1998, pp.29–42; Jackiewicz, Irena: *Solidarity in a double role. Political representation and pressure group 1991–1994*, in: Agh, Attila / Ilonszki, Gabriella (ed.): *Parliaments and organised interests. The second steps*, Budapest 1996, pp.121–129.

¹⁶ Gadowska, Kaja: *Zjawisko klientelizmu polityczno-ekonomicznego*, Cracow 2002; Szczerbiak, Aleks: *The Polish Peasant Party. A mass party in postcommunist Eastern Europe?*, in: *East European Politics and Societies* 3/2002, pp.554–588; Deppe, Rainer / Tatur, Melanie: *Rekonstitution und Marginalisierung. Transformationsprozesse und Gewerkschaften in Ungarn und Polen*, Frankfurt/M. 2002, pp.240–248.

¹⁷ A systematic test of this hypotheses is presented by: McMenamin, Ian: *How 'post-communist' are business interest associations in Poland?*, Conference paper, BASEES annual conference, Cambridge 02. April 2000.

¹⁸ See the part on „Non-state actors“.

pervision.¹⁹ As in the Polish case, the agriculture lobby in the Czech Republic adopted a combination of capture strategy and specific protests against concrete policy measures. The success of this strategy was however limited.²⁰

In *Russia* the illegal capture strategy based on corruption networks dominated successful exertion of influence on economic policy-making. “Oligarchs” from the banking sector and the oil and gas industry in this way secured preferential treatment for themselves. The agriculture lobby reached their aims through a legal capture strategy, positioning loyal supporters in the ministry of agriculture and in parliament. Only the coal-mining sector, as in the case of Poland represented by a coalition of managing directors and workforce, followed a consequent strategy of confrontation. The remaining actors, among them both entrepreneurs’ unions and trade unions, pursued a strategy of cooperation.²¹

In summary, the strategies of non-state actors differed substantially among the three countries. While in Poland legal capture played a major role in influencing policy-making, in Russia illegal capture was prevailing. A strategy of cooperation clearly dominated in the Czech Republic.

Besides country-specific differences one can discern group-specific differences as well: entrepreneurs’ unions are weakly developed in all countries and limited to a strategy of cooperation. The same holds true, with the exception of the special case of Poland, for the trade unions. Strategies of confrontation in order to influence economic policy remained an exception in all three countries. The potential for protest seems to have been greatest in the coal-mining sector and in agriculture.²² Above all well-organised economic sectors such as the agricultural sector were successful in using a legal capture strategy. Firms with great financial power, i.e. banks and in the Russian case the energy sector as well, had the potential to systematically and successfully pursue an illegal capture strategy. While at the end of the 1990ies in the case of Russia about 15% of firms engaged in an illegal capture strategy at the national level, the figure was less than 5% for Poland and the Czech Republic.²³

Actor constellations

The success of non-state actors in the exertion of influence on policy-making depends on three main factors: rules, resources and network position.²⁴

In the case of *rules*, a distinction must be made between rules that lay down mandatory guidelines of behaviour for all non-state actors and actor-specific rules, which specifically give preferential treatment to individual actors or groups of actors or place them at a disadvantage. General rules can be found e.g. in laws on lobbyism or party finance, which for example define the borders between legal and illegal capture strategies. Relevant actor-specific rules existed in Poland and the Czech Republic within the framework of tripartism. Actors invited to join the

¹⁹ Appel, Hilary: Corruption and the collapse of the Czech transition miracle, in: East European Politics and Societies 3/2002, pp.528–553.

²⁰ Blažek, Petr: Reprezentace zemědělských zájmu v politickém systému České republiky. Ekonomiké (profesní) zájmové skupiny, in: Politologická revue 1/2000, pp.22–38; Myant, Martin: Employers’ interest representation in the Czech Republic, in: Journal of Communist Studies and Transition Politics 4/2000, pp.1–20, here: pp.5–9.

²¹ An overview is given by: Pleines, Heiko: Wirtschaftseliten und Politik im Rußland der Jelzin-Ära, Münster 2003.

²² The generally low inclination for mass protests in the post-socialist states of Eastern Europe (compared to Latin American states) is analysed by: Greskovits, Bela: The political economy of protest and patience, Budapest 1998.

²³ Hellman, Joel S. / Schankerman, Mark: Intervention, corruption and state capture. The nexus between enterprises and the state, in: Economics of Transition 3/2000, pp.545–567, here: p.555.

²⁴ The principal interest of non-state actors to influence economic policy-making is taken as given, since actors not interested were not included in the analysis.

tripartite council had special information, consultation and in some cases even decision-making privileges in the area of economic and social policy.

Resources relevant for the influencing of politics depend on the chosen strategy. For a cooperation strategy and a legal capture strategy above all (exclusive) information, expertise and personal contacts are significant. For an illegal capture strategy uncontrolled disposal of financial means is necessary in order to be able to make payments to political actors. For both strategies, access to the mass media can be helpful as a further (roundabout) means to present one's own point of view to the political actors or to support them in electoral campaigns. A confrontation strategy presupposes a mass basis that can be mobilised for protests. In order to increase the degree of mobilisation and public pressure on political actors, access to the mass media is also of great importance.²⁵

Thus, the exertion of influence always requires control of resources. The bigger the resources, the bigger *ceteris paribus* the potential for exerting influence. At the same time, the inventory of resources limits the choice of possible strategies. A confrontation strategy is not very promising without a mass basis. An illegal capture strategy is not possible without the necessary financial resources.

However, the possibilities of non-state actors to influence policy-making also depend on their contacts to state decision-makers. The quality of these contacts will be termed **network position**, following Burt. Two main criteria are applied: firstly, the number of direct and indirect contacts, i.e. the total number of relevant actors with whom arrangements are possible; secondly, the possibility of playing off state actors against each other. This possibility arises when state actors do not cooperate with each other. If there is no exchange of information between state actors, non-state actors may manipulate one state actor by pretending to act as agreed with the other. If there is a conflict between state actors, non-state actors can even enter into an alliance with one state actor against the other. If thus two state actors are isolated from each other by mutual disregard or rivalry, allowing non-state actors to play off state actors against each other, there is, in Burt's terminology, a structural hole between the state actors.²⁶

If all actors relevant to a policy field and the contacts between them are taken together, the result is a policy field network. The network position of the respective actors is determined by the number of relevant contacts and the possibilities of manipulation via structural holes. As the formal power of decision making always rests with state actors, structural holes between state actors are especially significant for the exertion of influence by non-state actors. Structural holes between state actors in democracies can usually be ascribed to one of two reasons. Firstly, they can be inherent in the system, if e.g. both parliament and president are directly elected by the people and can therefore belong to rival political camps. A structural hole can also open up in a bicameral parliament between both chambers of parliament, as the members of both are appointed according to different criteria, so that conflicting parties each can dominate one of the chambers. The creation of a formally independent central bank creates a structural hole as well, by isolating a major economic policy decision-making body from the influence of other state actors. Secondly, structural holes between state actors can be a consequence of constellations of power politics, for example in a government coalition with internal conflicts or in a parliament with unsure majorities between rival factions.

Russia under President Boris Yeltsin is a prime example for the existence of a multitude of structural holes between state actors. While the president was in an on-going conflict with parliament, he consistently appointed members of rivalling political camps to government posts

²⁵ The only exception is the case of a confrontation strategy based solely on legal means. This, however, requires a (at least supposed) violation of legislation by state actors (and in addition independent courts). In such a case the only relevant resource would be legal competence.

²⁶ Burt, Ronald S.: *Structural holes. The social structure of competition*, Cambridge/MA 1992.

thus creating a structural hole between different groups within the government. In the legislative branch, there was a structural hole between the two chambers, the Duma and the Federation Council as the representative organ for the regions. Within the Duma, there were conflicts between rival factions with shifting majorities. The governors as representatives of the regions often formulated their own position. The central bank pursued an independent policy as well. Due to the large number of rival state actors, non-state actors who wanted to influence economic policy-making stood a good chance of finding a state actor who would support their position in the conflict with other state actors. The result was the informal (and often illegal) exertion of influence by the oligarchs, as well as a blockade of economic policy-making processes in those policy fields in which cooperation between parliament and government was indispensable.²⁷

When Vladimir Putin succeeded Yeltsin at the beginning of 2000, the situation changed considerably. Putin managed to close most of the structural holes between state actors in a short period of time. Relatively soon, the government started to act as a cohesive team in coordination with the president. Cooperation with the central bank was also improved by a reshuffling of personnel. Putin managed to find a pragmatic but stable majority for his policy in parliament. State actors at the national level thus acted as a largely united group. A structural hole relevant to economic policy remained only between national and regional actors. The influence of non-state actors on economic policy was clearly pushed back both by the new unified stance of state actors and by specific measures to intimidate the “oligarchs”.²⁸

State actors in the *Czech Republic* attained an even greater degree of cohesiveness under Prime Minister Vaclav Klaus (1992–1997). The government acted as a unified group and had a majority in parliament. Non-state actors who wanted to exert influence on economic policy-making were consequently up against a united – and comparatively forbidding – front of state actors. Non-state actors were able to gain influence only in the case of corruption networks in the area of privatisation. But it may be that the position of state actors was centrally coordinated even in this case.

With the fall of the Klaus government there was a fundamental change in the actor constellation of economy-related policy field networks. The minority government under Milos Zeman (1998–2002) had to show a great deal of consideration towards Klaus’ party because of the toleration pact it had concluded with this party. In order to close the structural hole between government and party it had to rely on willingness to compromise, which in turn led to a structural hole between the forces in the government ready to compromise and those against cooperation. Non-state actors could exploit the government’s weakness to exert influence. The agriculture lobby thus managed to provide the minister for agriculture. A major consequence of the structural holes between state actors was however a far-reaching blockade of economic policy-making, which left both state and non-state actors with little scope for action.²⁹

The fastest change in actors’ constellations occurred in *Poland*. The reform government formed by Solidarność, grouped around Leszek Balcerowicz in the area of economic policy, after its

²⁷ On the formal decision-making process and actor constellations under Yeltsin see: Pleines, Heiko: *Wirtschaftseliten und Politik im Rußland der Jelzin-Ära*, Münster 2003, pp.92–127 und 369–408; Schröder, Hans-Henning: *The oligarchs. A force to reckon with?*, in: Harter, Stefanie / Easter, Gerald (ed.): *Shaping the economic space in Russia*, Aldershot 2000, pp.50–64.

²⁸ Peregudov, S.P.: *Korporativnyj kapital i instituty vlasti. Kto v dome chozjain?*, in: *Političeskie issledovanija* 5/2002, pp.74–84; Reddaway, Peter: *Is Putin’s Power More Formal Than Real?*, in: *Post-Soviet Affairs* 1/2002, pp.31–40; Hyde, Matthew: *Putin’s Federal Reforms and their Implications for Presidential Power in Russia*, in: *Europe-Asia Studies* 5/2001, pp.719–743; Remington, Thomas F.: *Putin and the Duma*, in: *Post-Soviet Affairs* 4/2001, pp.285–308.

²⁹ On the formal decision-making process and actor constellations in the Czech Republic 1992–2002 see: Vodička, Karel: *Das politische System Tschechiens*, in: Ismayr (ed.): *Die politischen System Osteuropas*, Opladen 2002, pp.239–272; Orenstein, Mitchell: *Out of the red*, Ann Arbor 2001, pp.61–95.

assumption of office in 1989 initially acted as an isolated team of technocrats, not unlike the Klaus government in the Czech Republic. By its radical economic reforms it however rapidly lost the support of trade union grassroots. At the same time structural holes opened in the relationship with President Lech Wałęsa, who represented an alternative strategy of coping with the crisis, and with the parliament, in which the government did not possess a majority.

As a result a change of power occurred in 1993. The new coalition government with a social-democrat orientation had a majority in parliament. The government was capable of action, but for that it had to integrate non-state interest groups, especially the trade unions³⁰ and the agriculture lobby³¹. Industrial enterprises could obtain protection from competition pressures via influence on the government as well. This means that the government secured its capability of obtaining a majority through the integration of a large number of interest groups, to each of which it made concessions in order to win loyalty. The consequences were an active social policy and extensive rent-seeking by companies that had opted for a capture strategy.

After the parliamentary elections of 1997, a conservative-liberal government coalition with the participation of *Solidarność* came to power. The ideological reorientation of economic policy led to a conflict with the previously favoured non-state interest groups. The government implemented some liberal economic and social reforms. This resulted in a structural hole between conservative members of government close to *Solidarność* and the liberals around Balcerowicz. At the same time the government was often in opposition to the social-democratic president Aleksander Kwaśniewski. Against the background of an economic crisis that was tightening its grip, the government parties clearly lost the parliamentary elections of 2001 and were replaced by a social-democrat common list.³²

Conclusion

In summary controlling resources was a necessary condition for non-state actors interested in the exertion of influence on policy-making, but the actors' constellation on the side of state decision-makers was decisive for the extent of this influence. We can differentiate three scenarios:

- (1) Unified state actors who are able to act in a consistent manner can fundamentally limit non-state actors to the role of a consultant, i.e. to a strategy of cooperation. This means if the head of the executive was able to win basic loyalty of all main state actors, as in the case of Klaus, Putin and the early phase of the 1989 *Solidarność* government, he had extensive room for manoeuvre regardless of the pressure from non-state actors.
- (2) If however structural holes did open between state actors, this created the foundation for a capture strategy on the part of non-state actors. Confrontation strategies had a greater chance for success in this case as well. If structural holes could be closed by compromise, such as in Poland under the social-democrat government and in Russia under Yeltsin in those policy fields that the executive was able to shape largely autonomously, comparatively cohesive policy field networks were created, incorporating major non-state actors.
- (3) If there however was an unbridgeable structural hole between at least two major state actors, such as in Russia under Yeltsin or in the Czech Republic under Zeman between executive and legislative, this resulted in a blockade of decision-making in those policy fields where parliament could not be circumvented.

³⁰ The OPZZ was a member of the government coalition. *Solidarność* was converted to (hesitant) cooperation by the creation of the tripartite council.

³¹ The political party of the agriculture lobby, the PSL, was a member of the government coalition.

³² On the formal decision-making process and actor constellations in Poland 1989–2001 see: Ziemer, Klaus / Matthes, Claudia-Yvette: *Das politische System Polens*, in: Ismayr (ed.): *Die politischen System Osteuropas*, Opladen 2002, pp.185–238; Orenstein, Mitchell: *Out of the red*, Ann Arbor 2001, pp.25–60.

We can draw the following conclusions for the countries discussed here. The number of lobbying groups relevant to policy-making is comparatively small. Their possibilities of exerting influence are, with a few exceptions, limited to a consultative role, i.e. a cooperation strategy. Exceptions are above all those cases where lobbying structures existed already in the socialist system, in concrete terms the agriculture lobby, coal mining and the Polish trade unions. Individual non-state actors not organised in lobbying groups exert influence primarily via individual capture strategies with a strong illegal component. Though the actual pressure groups as well as the significance of corruption networks differ considerably between the analysed countries, the potential of non-state actors to exert influence depends in all cases primarily on the actors' constellation on the side of the state. Due to their weak state of development, non-state actors can pit little against unified state actors. If however structural holes exist between state actors, non-state actors can attain considerable room for manoeuvre. Although kind, number and strategies of non-state actors remained relatively stable in the course of the 1990ies, their influence varied considerably in this period because actor constellations on the side of the state changed often and fast.

Case Study: Czech Labour and Capital Interest Representation. The Social Dialogue at the National and EU Level

Introduction

In democratic societies, interest organisations and political parties are key actors in the structured process of mediating interests. This process has become an important part of the functioning of modern democratic societies. Among the large number of interest organisations active in the Czech Republic, there are some that, because of their influence and prominent position, have permanent access to political decision-makers and that to a great extent influence the shape of public policies. Representatives of labour and capital, i.e., trade unions and organisations representing employers and businesses, have a particularly privileged position. They played an important role during the transfer to the market economy in the process of economic restructuring; their importance has increased as a result of the accession of the Czech Republic to the European Union and their contributions to the European social dialogue.

Development of the Social Dialogue

After 1989 and the beginning of the economic transformation, which included the transfer to a market economy and changes in the legislation and in the position of trade unions, it became necessary to create a political and institutional framework to help ameliorate, prevent and minimise potential conflicts. As was the case in other Central and Eastern European countries, the government, in co-operation with trade unions and budding business and employer unions whose goal was to organise and advance the employers' collective interests in the labour market, decided to create an institution of social dialogue in the form of "tripartite". Tripartite negotiations take place between representatives of employers and employees, with the state (government) participating as a representative of the interests of society as a whole. The members of this tripartite body¹ – the Council for Economic and Social Agreement (hereinafter "the CESA", as the name has changed several times over the years) – were representatives of the government, trade unions, and employer and business associations. The basic idea was that though the individual partners had specific and often opposing interests and activities, they did share some common goals, and in order to achieve these goals it was necessary to act together, to harmonise interests, and to seek consensus. The goal of this chapter is to investigate and assess the role of the social dialogue in solving and harmonising the opposing interests of labour and capital.

Social partnership, and its institutionalised form of the tripartite, has contributed to the transformation process; it has developed as a consequence of the changing political, economic and social conditions, and also as a result of the "maturing" of the social partners. Relationships between social partners and the state have changed, as have the function and organisation of the social dialogue. The primary force that brought about changes to the social partnership was privatisation.

The concentration of interest associations and the creation of power groups are basic preconditions for the functioning of the social partnership. Existing prominent centres on the part of employer associations as well as the trade unions synchronise the strategy of negotiation within sectors and fields. The range of represented interests covers the entire spectrum of the member organisations. The functioning of these structures is not, of course, unproblematic, especially if we consider the relationships between representatives and those represented. These relationships

¹ Known as tripartite because of the participation of three partners.

are organised on a strong vertical axis, but they also have to take into account the need for the autonomy of member organisations. Interest groups of employers and entrepreneurs were created as early as the first year of the post-November 1989 transformation of the political and economic system. Some of these were established as wholly new organisations, inspired mainly by similar associations in Western Europe; others continued (at least symbolically) the tradition of pre-war associations.

The central idea of the social dialogue, and the idea that is behind the establishment of the social dialogue in the Czech Republic, is that all the participating actors recognise the principal goals of economic and social policy and that these goals may be more easily achieved through co-operation and co-ordinated activities than through open conflict. Social partnership is a model aimed at resolving problems and settling disputes jointly, by concentrating on common goals and the willingness to find consensus and compromise.

The reform strategy after 1989 required a political and institutional basis for the social dialogue that would help prevent, resolve or minimise anticipated conflicts. As in other countries in Central and Eastern Europe, in 1990 the federal government and the national governments decided to create institutions that would represent relevant interests and allow feedback. The motivation for establishing the CESA was to create a platform for preventing and resolving conflicts. Neither its existence nor its relationship to the Parliament is formally enshrined in the legal order. Its work is the result of an agreement between the parties concerned. Tripartite negotiations were first used for the purpose of consultation on important government actions, bills and measures concerning employment, the standard of living, and social and working conditions, before the government made its decision on these proposals. The dialogue helped to create the proper framework for economic and social development.

The form of tripartite ties developed as a result of the changing political, economic and social conditions and the growing maturity of the social partners. Denationalisation and privatisation resulted in changes in the content of the negotiations. In this respect, the social dialogue in the Czech Republic underwent a process of development similar to that which occurred in other countries of Central and Eastern Europe, where one could observe an ebb and flow in the importance of the social dialogue, shaped by political and economic cycles. The governments in these countries and their relations with the social partners have played a key role in influencing the agenda and the quality of discussion in tripartite bodies.² The political situation during the first two-year governmental term of 1990–1992 was favourable for tripartite negotiation. The subsequent onset of a right-wing, neo-liberal cabinet and continued privatisation led to efforts to restrict tripartite negotiations, to transform the CESA into an advisory and consultative body of representatives of employees and employers, with the Government merely adopting the role of observer.

Increasing economic problems in 1996 and 1997 and growing social tension resulted in the right-wing cabinet paying greater attention to the tripartite. The government displayed an increased willingness to negotiate and consult with its social partners, and to seek their support for planned initiatives. The arrival of the social democratic government after the June 1998 elections created conditions that were more favourable for the social dialogue, given the attitude of the Social Democrats as declared in their manifesto. The government also inherited a difficult economic situation, which contributed to its inclination to communicate with the social partners. Thus far the government has placed great importance on the social dialogue and the social partners have welcomed this. The government was motivated not only by its manifesto, but also by the preparations for accession to the EU, which required that social partners be consulted with respect to important steps. After taking power, the government started to make use of new forms

² Tóth, András / Neumann, László: National-level tripartism and EMU in the new EU Member States and candidate countries. European industrial relations observatory on-line, 2004, p.4. <http://www.eiro.eurofond.eu.int/about/2004/study/tn0403102s.html>

of the social dialogue at the national level in order to involve the general public, particularly non-governmental organisations, civic initiatives and independent experts, in the preparation of strategies for and legislation on employment, social security, labour relations, etc.³

After taking office in August 2004, the current centre-left government⁴ asked the CMKOS trade union confederation to participate in drawing up its programme, and trade unions submitted a list of priority suggestions. The adopted programme included commitments in areas such as promoting the social dialogue and collective bargaining, amending the Labour Code and reforming pensions.⁵ The government wants to promote the use of the tripartite council as well as to support collective bargaining at all levels, including in the public sector and services sector.

Actors in the Social Dialogue Process

Since the beginning of the tripartite, the CESA has included seven government representatives, seven representatives of the trade unions and seven representatives of employers, in what were called delegations. Each of the delegations has alternate members. Despite the different types of delegations, in view of the changing statutes and conceptions of tripartite ties, the Council has always consisted of three partners and the same institutional representatives of employers and employees. The Council is headed by a government representative, usually the Minister of Labour and Social Affairs.

As of 2005 the government is represented by the Minister of Labour and Social Affairs; the Deputy Prime Minister for Economics; the Minister of Finance; the Minister of Agriculture; the Minister of Industry and Trade; the Minister of Transportation; the Minister of Regional Development and the Minister of Defence.⁶

Employees are represented by two central trade union bodies: the Czech and Moravian Confederation of Trade Unions (ČMKOS)⁷ (the largest trade union), and the Association of Independent Trade Unions (ASO). At present ČMKOS is represented by representatives of the following trade unions: KOVO (METAL) trade union; the Healthcare and Social Care trade union; the Construction trade union; and the Chemical Industry trade union. Though at the moment trade union organisations outside of these umbrella confederations are not represented in tripartite negotiations, there is pressure from some of them for this to change. In the Czech Republic, the trade unions have remained highly centralised, and this has proven to be an advantage during negotiations, in part because of their strong base of specialised experts. An issue that has continued to be discussed frequently is that of the representation of newly formed entities, especially new trade unions, the representation of other civic associations, and in general, the criteria for various levels of representation.

The employer delegation has seven members which at present are representatives of the Federation of Industry and Transportation of the Czech Republic (SP CR); and the Confederation of Employer and Business Associations (KZPS) and some of its members (the Federation of Czech

³ Hála, J. / Kroupa, A. / Kux, J. / Mansfeldová, Z. and Rakušanová, P.: Social dialogue and EMU in the Czech Republic. In: Social dialogue and EMU in the acceding countries. Dublin: European Foundation for the Improvement of Living and Working Conditions, 2003, pp. 81–106, here: p.87.

⁴ Formed by the Czech Social Democratic Party, the Christian Democratic Union – Czechoslovak Peoples' Party and the Freedom Union-Democratic Union.

⁵ <http://www.eiro.eurofound.eu.int/2004/10/inbrief/cz0410102n.html>

⁶ <http://wtd.vlada.cz/scripts/detail.php?id=6112>

⁷ Czech and Slovak Confederation of Trade Unions (ČSKOS) was the successor central organisation in 1990 after the collapse of the former Revolutionary Trade Union Movement. It took over the member base and assets. Within ČSKOS in the Czech part of the federation, the Czech Moravian Chamber of Trade Unions was founded, later renamed to the Czech Moravian Confederation of Trade Unions

and Moravian Manufacturing Co-operatives and the Association of Construction Entrepreneurs of the Czech Republic).

Let us look in some detail at the two employers' federations and the interests they represent. In 1990 an umbrella organisation was created which was to bring together all the important entrepreneurial and employer associations and represent them at negotiations with the government and trade unions. The constituting members of this Co-ordination Council of Entrepreneurial Unions and Associations of the Czech Republic (KORP) were the Association of Czechoslovak Entrepreneurs CR, the Association of Industry CR, the Association of State Enterprises and Joint-Stock Companies, the Czech Managerial Association, and the Czechoslovak Business and Industrial Chamber; other interest groups joined later, for example, various co-operative unions. Over the years there have been some changes including the pull out of the Association of Industry, which then became an independent entity in the tripartite. KZPS is an umbrella organisation for many business associations set up for individual branches of industry and bringing together private businessmen. KZPS is not a member of any European association of employers (unlike its member associations, which often are members of European federations). Through its members, the Confederation has a representative in the European Economic Social Committee, which brings together representatives of employers, trade unions and various civic associations. The KZPS formulates the common business and employer interests of its members, and promotes them in co-operation with the relevant state bodies, other employer organisations and trade unions, especially through various forms of consultations with the government. Furthermore, it supports the promotion of specific interests of its members concerning legislation and other areas, and co-ordinates the common interests of its members and contributes to strengthening co-operation among them.

The Association of Industry and Transport is the largest employer association in the Czech Republic thanks to a large membership base that includes 30 associations. As a result, it also represents Czech entrepreneurial and employer associations at the European and global level. Unlike the Confederation, it does not concentrate merely on the tripartite but also performs a number of other activities. Its task is to "influence economic and social policy of the government of the Czech Republic, create optimal conditions for a dynamic development of business in the Czech Republic and defend the common interests of its members".

Unlike trade unions (which in 1990 generally took over the existing membership base, the material equipment and the infrastructure), employer organisations had to start practically from scratch⁸ and to date do not have comparable material or expertise conditions.

With respect to negotiations of the tripartite, working teams play the greatest role; the working teams are the expert bodies of the CESA. They are responsible for addressing and preparing professional standpoints and other groundwork for the other bodies of the CESA. In 2005, working teams for the following were in place:

- legal labour relations, collective bargaining and employment
- wages, salaries and related issues
- work safety
- social issues
- public services and public administration
- economic policy
- integration into the European Union
- education and human resources
- tripartite negotiation and organisational issues

⁸ See e.g. Tóth, András / Neumann, László: National-level tripartism and EMU in the new EU Member States and candidate countries. European industrial relations observatory on-line, 2004. <http://www.eiro.eurofond.eu.int/about/2004/study/tm0403102s.html>

In addition, there are also working groups, dealing with extraordinary and preliminary solutions to more topical matters of joint interest.

During the preparations for the EU accession, the working team for European Integration played an important role. This team was established in 1998 and chaired by the head of the government negotiating team; all important measures related to the Czech Republic's accession to the EU and which affected employees' interests were discussed by this working team. In this way, the social partners were given the opportunity to discuss matters as important as the harmonisation of legislation, the restructuring of the steel industry, and tax policy. Both trade unions and employers welcomed this as a chance to acquire information and express opinions on the documents being prepared, if for no other reason than that they had not succeeded in joining the government negotiation team despite their efforts and expressions of interest.

Major Issues Discussed in the Tripartite Negotiations

The main problems that have been tackled recently in tripartite negotiations concern the transformation of the social sphere, wages, labour relations and the Labour Code. The act on strikes and the act on the civil service are also worth mentioning. The problems associated with the transformation of the social sphere have affected mainly social, health and pension insurance.

Negotiations on *pension insurance* generated three areas of conflict: the separation of the pension system from the state budget, the raising of the retirement age, and the issue of supplementary pension insurance on a collective (employee) or individual basis. With regard to the last point, the government sought to assert the individual principle exclusively, and until 1999 there was no change; employers now have more opportunities to contribute to supplementary pension insurance. At present, a major pension system reform is under preparation, and it will be one of the key tasks of the tripartite.

Since the beginning of the economic and social transformation, *the amendment to the Labour Code*, one that would reflect all the fundamental changes in labour relations, has been an important and contentious issue. There was disagreement on both the form of the new legislation on labour relations and its substance. In the mid-1990s, the question was whether the labour law should be covered by a separate code (as had been the case since 1965) or if it should become a part of the Civil Code. After discussions spanning many years, an agreement was reached to the effect that a separate Labour Code would be preserved. Preparatory work on the amendment to the Labour Code commenced, but a bill has not yet been submitted.

Accession to the European Union brought about the need to harmonise the Czech labour law with that of the EU. A broad discussion among social partners was directed and co-ordinated by the Ministry of Labour and Social Affairs under the new political conditions, and resulted in an amendment of the existing Labour Code. Twenty-eight EC directives related to the labour law have been implemented in the Czech Labour Code. The amendment was adopted as Act No. 155/2000, and came into force on 1 January 2001. A new amendment, the so-called euro-amendment, was added later in connection with the harmonisation with European law.

Between 1991 and 1995, the main point of conflict in the area of wages was the *regulation of wages*, which was definitively eliminated in July 1995. The development of wages was limited by wage control, undertaken by the Government from the beginning of 1991 to mid-1995. Wage control was introduced by a government provision of 1991 as an anti-inflation measure, and since its introduction it has been a hotly disputed issue in the CESA. The wage controls only involved state-owned companies; private enterprises, companies with foreign stakeholders and small businesses were exempted. With the progress of privatisation and the growing share of foreign capital, regulatory intervention by the state became superfluous.

Given its low levels, *unemployment* did not constitute a serious problem in the Czech Republic for a long time, and therefore was not a central issue in the tripartite council. But unemployment

started to rise in 1997, and this tendency continues.⁹ Scaling down (which influenced some industrial regions), the restructuring of industry, and low mobility have made unemployment an urgent problem in some regions. Therefore, unemployment became one of the priority issues in the CESA, in particular in terms of identifying ways to solve the problem of unemployment in heavily affected areas.

Closely related to the problem of unemployment is the *problem of minimum wages*, which has been a focus of the CESA since the early 1990s. We know from international comparisons that the minimum wage is generally a very sensitive topic of tripartite negotiations.¹⁰ Similarly, in the Czech Republic minimum wages were among the most controversial issues in the tripartite agreement process in the Czech Republic. It was predominantly the trade unions that promoted an increase in minimum wages; this conflicted with the ideas of the government and resulted in controversy. By the end of the 1990s, however, the government had changed its attitude. Low minimum wages, which virtually equalled the government-guaranteed subsistence level or the unemployment benefits, often had the effect of being a counter-incentive with respect to those seeking employment.

Another temporary problem related to wages was *late payment of wages*, which in 1999 became a rather frequent phenomenon. In 1999 there were still economic and social problems and problems in some of the major industrial companies. In late 1999, the insolvency of companies and the resulting demands for back payment of wages became a major problem.¹¹ The Act on the Protection of Employees in the case of Insolvency, which came into force in May 2000, addressed this issue by making regional Labour Offices responsible for the payment of wages in cases of insolvency.

New Forms of Social Dialogue

In an effort to involve a wider range of institutionalised actors of civil society in the dialogue on social and socio-economic issues, new forms of dialogue have been developed in the last few years. One of these was the Social Conference (SK), whose work came to be guaranteed by the Ministry of Labour and Social Affairs. The mission of the Social Conference was primarily to debate prepared decisions of the government and the Parliament on institutional reforms in the welfare sphere. For example, in 1999 the Social Conference was involved in debates concerning the reform of the social security system and in 2000 in debates about pension reform. Another new form of social dialogue was the co-operation of the State and social partners in preparing labour-law legislation; this took the form of “roundtables”. Meetings were usually summoned by the responsible department which initiated a new legislation, and representatives of social partners as well as MPs (members of the Committee for Welfare Policy and Healthcare of the Chamber of Deputies of the Parliament of the Czech Republic) and experts participated. These roundtables were intended to take advantage of the expertise of the widest possible range of experts and to generate support to push a bill in Parliament. This form of co-operation was successfully tested, for example, during the preparation of the amendment to the Labour Code.¹²

⁹ In December 2004, registered unemployment in Czech Republic was nearly ten per cent.

¹⁰ Tóth, András / Neumann, László: National-level tripartism and EMU in the new EU Member States and candidate countries. European industrial relations observatory on-line, 2004. <http://www.eiro.eurofond.eu.int/about/2004/study/t0403102s.html>

¹¹ According to estimates from the ČMKOS Trade Union headquarters, 300,000 employees were affected in that time: these employees either did not receive any wages, received partial wages and/or experienced delays. As a result, trade unions organised protests and demonstrations. In December 1999, the Chamber of Deputies passed a bill requesting the government to release CZK 400 million (about EUR 13.5 million) for interest-free credit to be granted to people who did not receive wages.

¹² Kubínková, M.: Národní studie o sociálním dialogu v ČR. Praha: ČMKOS, 2001.

In addition representatives of social partners may participate in meetings of related parliamentary committees that are public, and although they do not have the same position as MPs or Senators, they can ask to be given the floor (and they are). New forms of social dialogue are not limited to the welfare sphere. During the preparations of the Czech Republic for the accession to the EU, the executive at the relevant departments dealing with the approximation of the Czech law to the European law was in need of contact with social partners, their knowledge of reality. Social partners, employers and trade unions, had their representatives in departmental commissions that dealt with the implementation of the European law and norms.

Another area where positive changes have been recorded in recent years is the social dialogue at the regional level. Here it is possible to implement civic activities and achieve a high level of participation, and also to link the more general decision-making framework with concrete activities and interests.¹³ After the creation of the new territorially administrative structure of the state, at the end of the 1990s regional councils of trade unions associated in ČMKOS were established in all regions. These councils are authorised to negotiate with relevant regional bodies of self-administration and state administration, with regional employer associations (Employer Councils have been established in all regions) and other regional representations. These bodies vary in competence. In some regions with specific social and economic problems, however, such bodies had already been established before the territorial reform – for example, the Economic and Social Council in the North Bohemian region, with its specific socio-economic problems resulting from coal industry restructuring. At present there are regional economic and social councils (tripartites) in 12 out of the 14 regions of the Czech Republic. Representatives of regional trade unions concentrate primarily on creating and implementing employment policies, the development of public services, and aspire to address more general regional issues.

Factors Constraining the Social Dialogue

Legal Regulation of Tripartism

The possibility of a legal regulation of the tripartite and of the legally binding nature of general agreements¹⁴ was discussed during the initial deliberations about the tripartite, and was still being discussed at the time the tripartite was established. In the end these ideas were abandoned, which means that the creation of tripartite bodies, and the content and manner of their functioning is not defined by law or by any other legal regulation in the Czech Republic, but instead is based on the principle of good will and agreement among social partners and government representatives.

Representativeness

How representative the representatives of the individual parties are is one of the important practical and theoretical issues of the social dialogue. This issue concerns both the choice of associations and unions representing interests, and the choice of concrete individuals representing individual associations. This issue of *representativeness* is related to the existence of a large number of trade union and employer organisations. The criterion for representativeness, included in the CESA statutes since 1995, stipulates the minimum number of organised members as well as the focus of activities, the organisational structure and the area of interest. The definition of a quantitative criterion is usually considered problematic in view of the demand to open up a democratic social dialogue. The enforcement of the representativeness criteria, especially of the minimum number of members, has resulted in some influential trade unions being excluded, and

¹³ Kroupa Aleš / Hála Jaroslav / Mansfeldová Zdenka / Kux Jaroslav / Vašková Renáta / Pleskot Igor: Rozvoj sociálního dialogu v ČR. Praha: VÚPSV, 2002, <http://www.vupsv.cz>.

¹⁴ General Agreements were agreements concluded in the tripartite between 1991 and 1994. Subsequent discussions on a freer form of the agreement, some form of social pact, have never achieved consensus.

places great demands on trade union congresses represented in the CESA with respect to the aggregation of trade union interests.

Dependence on the Government

Looking back at the last decade, it is clear that the presence of an independent social dialogue between the Czech social partners depends to a large extent on the will of the government (especially at the national tripartite level). The changing governments have either created or limited the institutional and legislative foundation for the social dialogue. The last governmental period brought a significant improvement in the conditions for the social dialogue. This makes it difficult for the labour market organisations to develop long-term strategies, and reduces their chances of taking responsibility for the social and economic development. This problem is not specific to the Czech Republic. The literature on industrial relations in candidate countries suggests that governments and their relations with the social partners play a key role in influencing the agenda and the quality of discussion in tripartite bodies.¹⁵ More stable, autonomous and formalised structures for a social dialogue would create better possibilities for the social partners to implement decisions adopted at the macro level at the lower level of the social dialogue, in branches, regions and enterprises. This, of course, requires the active participation of the social partners. In the Czech Republic, the dependence of the social dialogue on the political situation may be mitigated by the adoption of the European Constitution, which will strengthen the role of social partners and autonomous social groups.

Willingness of Social Partners to Share Responsibility

The willingness of social partners to share responsibility is limited. This can be demonstrated by the process of the adoption of the National Employment Action Plan (NEAP) for the year 2002.¹⁶ The social partners associated in the CESA participated in the comment and review process. The proposal for the plan was discussed in several working teams of the CESA and a number of comments were applied. The social partners often have a representative in the advisory bodies of the employment bureau and they could make themselves heard even more during the phase of the implementation of the NEAP. The proposal was approved at a plenary session of the CESA in February 2002, and only then was it submitted to the government for debate. However, the social partners refused to take on any responsibility for any of the measures, despite the fact that the government is often only able to create a legislative framework for addressing certain matters and to initiate recourse through the courts for possible infringements of regulations, which cannot occur without the active involvement of the social partners. The representative of one umbrella organisation of employers even presented the argument that *“this is why taxes are paid, so that there is a paid state employee to look after this.”* The Confederation of Employer and Business Associations, according to a statement by its representative, has had from the start an opportunity to exert its influence on the formulation of the Employment Action Plan and on its implementation and evaluation.

The majority of social partners currently still have not caught up with the developments of the social dialogue at the EU level. While individual unions and associations often have their own ties with some national unions and associations in the member countries of the EU, and sometimes with umbrella organisations, their information on recent developments of the social dialogue at the EU level is still rather limited. The participation of social partners is, however, a long-term process, and therefore it is possible to assume that following the accession of the

¹⁵ Tóth, András / Neumann, László: National-level tripartism and EMU in the new EU Member States and candidate countries. European industrial relations observatory on-line, 2004. <http://www.eiro.eurofond.eu.int/about/2004/study/tn0403102s.html>

¹⁶ Kužel, Václav: Národní politika zaměstnanosti. Unpublished manuscript, 2002.

Czech Republic into the European Union a qualitative increase in the social dialogue will take place.

Representation of Employee Interests

The position of trade unions in the Czech Republic is very complicated, and one could say that it is more complicated now than ever before. Today's trade unions in the Czech Republic were established at the beginning of the 1990s, but obviously they built upon the environment of the previous communist trade unions, unions that were only puppets in the hands of the ruling power. In the fast-developing, post-communist economy, trade unions, like society as a whole, faced the as yet unknown problems of a liberalising market. The unexpected economic development, the privatisation of companies and the distaste for communist structures in the first half of the 1990s were mirrored in a drastic decline in trade union membership. The prognosis is that this decline will not be reversed. When speaking about the conditions for tripartism and the social dialogue, we first have to mention the legal framework. According to the law, in negotiations with employers, trade unions represent all employees regardless of their trade union membership. This leads to the question of why one should be a member of a trade union and pay the membership fee when members and non-members are represented and protected to the same extent. Many people are simply not willing to invest in something they are not sure about; nor can they identify the benefits they would receive for their membership fees. They are satisfied with being "free riders". Free-riders, who refuse to bear the cost of collective action because they can reap the benefits of general interests without membership in the organisation, are a problem not only for the trade unions but also for employer associations.

Ability to Participate in the European Social Dialogue

Trade unions have long prepared for their participation in the European social dialogue. The largest trade union centre, ČMKOS, established its European Integration Team (EIT) in 1996 upon the initiative of ČMKOS and the European Trade Union Confederation. Until 2004, the EIT concentrated mostly on the preparations for the accession of the Czech Republic to the EU. Since 1 May 2004, its mission has grown. Its main task is to make sure that trade unions as a social partner are consulted at the national level during preparations of all major steps and documents concerning activities of the Czech Republic in the EU, and to co-ordinate representation of the Czech Republic in national structures related to the EU and European bodies where social partners are represented. At the EU level, representatives of ČMKOS are members of the European Economic and Social Committee, the Committee for European Social Fund, the Committee for Social Dialogue, advisory groups of the European Commission where social partners are represented, and other bodies.¹⁷

The organisation also drafts proposals of expert opinions on issues related to the EU for bodies of ČMKOS, collects and disseminates information in trade unions about the EU and its policies, opinions about the Czech Republic, ČMKOS and European trade unions on debated proposals of policies. It also concerns itself with the development of cross-border contacts with trade unions in neighbouring countries (Germany and Austria) within inter-regional trade union councils. ČMKOS has been a regular member of the European Trade Union Confederation since 1995.

Employers had been active in European structures long before the EU accession, and had formed institutional representation of their interests. The largest association of employers – the Czech Association of Industry and Transportation – is a voluntary organisation, associating employers and entrepreneurs in the Czech Republic from branches of industry and transportation. It is a member of IOE (International Organisation of Employers) since 1992, of UNICE

¹⁷ <http://www.cmkos.cz/eit.php>

(Union of Industrial and Employers' Confederations of Europe) since 1993 and of BIAC (Business Industry Advisory Committee of the OECD).

The Czech Association of Industry develops activities at the European level especially through CEBRE (Czech Business Representation), which the Association established together with the Confederation of Employer and Business Unions (KZPS) and the Economic Chamber of the Czech Republic, with the goal of defending Czech business interests directly in Brussels. CEBRE offers a large number of paid services such as information services, monitoring of news and legislation, preparation of analyses, trainings and fellowships, consulting on project preparation and mediation of contacts and meetings during lobbying activities. Co-operation between foreign associations and representatives of Czech industry at the international level also occurs through the Union of Industrial and Employers' Confederations of Europe (UNICE), where the Czech Association of Industry has its delegate. In addition to this, the Association of Industry has 10 representatives in advisory bodies of the European Commission.

Conclusion

The principles of the social dialogue in the Czech Republic do not differ significantly from the standards in EU member states. Some historical differences, however, come into play here: the adoption of agreements is too dependent on the current distribution of political power, and the principle of mutual respect among social dialogue actors and the principle of consensus building should be emphasised far more. Social dialogue has undergone many changes and thus reflects the economic and social developments in the Czech Republic. Social partners have learnt to understand that social dialogue is a never-ending dialogue, with short-term and long-term goals. To further develop the social dialogue it would be desirable to create a national social dialogue system bringing together the national and regional levels.

Social partnership (and its institutionalised version, the CESA) has contributed to the transformation process in the Czech Republic, and at the same time has continued to develop as a consequence of political, economic and social changes and the "maturing" of the social partners. The relationship between social partners and the state, and the function and organisational structure have changed.

The development of tripartism and the social dialogue in the Czech Republic could be characterised as a development between policy concertation and policy consultation. Policy concertation could be defined as an attempt to bring into consonance the interests of government, employers and employees through the formation of government policy.¹⁸ The tripartism at the beginning of the 1990s could be characterised as policy concertation. The later development could be qualified as consultation.

The principles of mutual respect among the actors of the social dialogue and of consensus as a common goal in negotiations are elementary preconditions, and as such they are important and must be strongly enforced in Czech society. Although the national social dialogue has played a significant role in the country's transition period, and both higher-level and enterprise-level social dialogues contributed to the last decade's development, the use of social dialogue as a way of mediating between the different interests in society (more the case at the national level, but dependent on the present government's political priorities) is not well established.¹⁹ More stable, autonomous and formalised structures for social dialogue would facilitate the implemen-

¹⁸ Compston, Hugh: *The Strange Persistence of Policy Concertation*, in: Berger, Stefan and Hugh Compston (eds.), *Policy Concertation and Social Partnership in Western Europe. Lessons for the 21st Century*. New York, Oxford: Berghahn Books, 2002, pp. 1–16.

¹⁹ *Developing social dialogue in the Czech Republic. Evaluation Report of the Twinning Activities and Pre-accession Recommendations*. Phare Twinning Project between the Czech Republic and Denmark CZ 99/IB/CO-02, 2002, p.9.

tation of decisions at grass roots level, in branches, regions and enterprises. This, of course, requires the active participation of the social partners.

The establishment of tripartite structures in the Czech regions is one of the contributions towards creating healthy and responsible relations of social partnership. Representatives of the administration and social partners have expressed their interest in stabilising their mutual obligations and are considering whether to resume the interrupted discussions on a long-term social pact between the executive, trade unions and employers. Such a social pact should be concluded for a longer time period regardless of the political atmosphere in the country, and should confirm the agreement on strategic plans for economic development and the living standard of citizens.

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