Collective Bargaining Agreements in Poland

-not very optimistic story

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Some history...

- Lack of tradition: autonomous collective agreements existed before WW II, but since 1945 - no possibility to conduct real collective bargaining in conditions of authoritarian state
- Breakthrough 1989 - the beginning of transformation, industrial relations system had to be built from scratch
- But.. instead building of social market economy the other paradigm won – neoliberal in the spirit of Washington Consensus
- Collective agreements treated by political elites as old fashioned unnecessary element that distorts the freedom of establishment
- Only in 1996 a legal framework for collective bargaining agreements (CBAs) could be established, as a result of the pressure of trade unions (Division 11 of the Labour Code)
- But for the following years, the concept of collective bargaining was not specifically promoted and honoured by the subsequent governments (regardless of their ideological option)
Main provisions

- 2 levels of negotiations: company and multi-company ("sectoral")
- Multi-company CBAs can be concluded with employers’ organisation and – in public sector – with local/national authority
- Only TU entitled to negotiate but when collective agreement signed – applies to all employees in the company(ies) covered
- Possibility of legal extension of "sectoral" agreements
- The "favourability principle" – CBA provisions can not be less favourable for employees than those adopted at upper level or provided by law
- Collective bargaining agreement is an independent source of law what means an employee may complain to the court if her/his rights arose from the CBA are violated (but the trade union that is a party to the CBA can not do so!)
Collective bargaining in practice

- About 9,000 functioning CBAs at company level
- Only 5 national-wide "sectoral" agreements, about 75 - at local level (mostly concluded for school employees who are not teachers). All together no more than 300,000 employees covered.
- The vast majority of the CBAs was concluded for an indefinite period, changes are introduced through so-called additional protocols.
- The content of the CBAs: provisions regarding working time arrangements, remuneration, training, OHS standards, mutual obligations of the parties regarding the principles of intra-company dialogue, other specific issues (like preventing mobbing, or management of the social fund).
- The large trade union pluralism at company level makes it difficult to conduct CBA negotiations (micro-unions, sometimes "yellow" can block them).
Charakteristic of the Polish system of collective bargaining: comparative analysis

- low coverage

Chart 1.4. Collective bargaining coverage in EU Member States, 2002-13

Source: ICTWSS database (Visser, 2015).
Note: BG 2003 data; CY 2011 data; LT, LV, PL, BG, RO, SK, CZ, MT 2012 data; HR no data for 2002 and 2013.
Characteristic of the Polish system of collective bargaining: comparative analysis

- huge decentralisation

**Chart 1.5. Dominant level of bargaining\(^{(1)}\) in EU Member States, 2001–13**

*Source: ICTWSS database (Visser 2015).*

\(^{(1)}\) 5 = bargaining predominantly takes place at central or cross-industry level and there are centrally determined binding norms or ceilings to be respected by agreements negotiated at lower levels; 4 = intermediate or alternating between central and industry bargaining; 3 = bargaining predominantly takes place at the sector or industry level; 2 = intermediate or alternating between sector and company bargaining; 1 = bargaining predominantly takes place at the local or company level.
Characteristic of the Polish system of collective bargaining: comparative analysis

• weak CB coordination

Source: ICTWSS database (Visser, 2015)¹.
What is behind such situation?

• Huge segmentation of labour market, more that 30% of workers on unstable (fix-term) or civil law contracts

• Employment structure by size of enterprises - in the private sector over 52% of people are employed in enterprises of up to 50 employees, it is difficult to organize them, it is even more difficult to negotiate a collective agreement

• Destructive role of multinational corporations, they are rarely willing to negotiate company agreements and strongly refuse to engage in sectoral negotiations, employers’ organisations serve rather as a kind of lobby associations

• The lack of collective bargaining strategy on the trade union side at sectoral and cross-sectoral level (bipartite relations with government as a priority)