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## Civil Dialogue in Poland in Light of EU Experiences

*Abstract:* This article deals with the issue of civil activeness in a system of free market democracy. Participation in social and civil dialogue is a sign of citizens' engagement and is considered here in the context of Jürgen Habermas's theory of communicative action. The manifestations and consequences of the extant institutional arrangements are shown, as are the means of describing and explaining them in the Polish socio-political and economic context. The reflections presented here illustrate the weakness of the existing measures. Both the institutional structure and the theoretical tools used in Poland are imitative in nature and do not fulfil the practical expectations of either participants or researchers of civil dialogue.

*Keywords:* social dialogue, civil dialogue, public sphere, participatory democracy, theory of communicative action

### Introduction

A permanent feature of a democratic system is the freedom and security of its citizens. In the former communist countries, the atrophy of political freedom and civil society was connected with the objectivization of the public sphere, which in a liberal democratic system is the natural property of a free, independent, and well-organized civil society. This creates the expectation that the weaknesses of contemporary democratic systems will be reinforced by the active participation of citizens in the decision-making processes of public authorities at all levels of governance.

Poland has managed a successful transition to a democratic system of government. As a member of the European Union it had to adopt a new model of civil action, shaped in the course of implementing EU measures in democratic practice. Initially, social dialogue, and later civil dialogue, as a scheme of arrangements aimed at strengthening citizens' sense of their ability to influence government, was a further challenge for Poland's young democracy. The social dialogue conducted in Poland—full of tension and conflict—revealed a range of unresolved and seemingly insoluble problems. Civil dialogue appeared thus to promise the successful resolution of most problems and reinforcement of the idea of democracy.

Participatory democracy, as an answer to the deficiencies of representative democracy, makes social and civil dialogue possible. Social dialogue in the EU, and above all civil dialogue, increasingly influences the state of socio-economic and political relations in Poland. Both the Constitution of the Republic of Poland<sup>1</sup> and Poland's membership in

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<sup>1</sup> Preamble of the Constitution of the Republic of Poland, 2 April 1997.

the EU<sup>2</sup> require national and local government authorities to take into account the model of social dialogue established at the community level. In addition to social dialogue, the development of civil dialogue is also promoted at the EU level.<sup>3</sup>

In his theory of communicative action, Jürgen Habermas defines democracy and democratization in accord with specifics of the political, economic, and civil spheres (Cohen and Arato 1997: 148). In keeping with this theory I assume that the public sphere is an authentic structure of communication: a structure for the exchange of information, opinions, and views, which, expressed as public opinion, become binding for the authorities. In actuality, the theory does not completely encompass the public sphere developed by citizens in their activities against the communist system. In conditions of developed democracy, it is the work, in its structures and nature, of public associations whose aim is the restoration of public discussion at all levels of the social organization. The public sphere appears as a democratic space for the participation of citizens in shaping common norms of consensus and agreement, shaping public opinion, and influencing the system's institutions (the state and the economy). Although the public sphere is rooted in civil institutions, it exceeds them by seeking agreement on questions and forms of solidarity common to all citizens as part of general morality.

The considerations on the state of social and civil dialogue contained in this work are an attempt to determine how civil dialogue in Poland can be classified as a communicative action within the framework of Habermas's concept. Habermas's theory contains postulates corresponding to the developmental needs and possibilities of western societies. The specific conditions of East Central European countries should be remembered, as these countries are at a considerably lower economic, social, and civilizational level after nearly fifty years of first totalitarian and then authoritarian governments, and are being recreated in new market economy and civil society versions. The reflections here are an attempt to verify Habermas's theory of communicative action in specific application to social phenomena in Poland.

Dialogue between public authorities and institutional civil society organizations (professional associations and NGOs) is treated as a form of communication between the state and the lifeworld (*Lebenswelt*). According to the theory, civil dialogue serves to free citizens from the internal logic of the economic system and state (which exert control by means of money and power). A question arises: should (social and civil) dialogue be treated as a goal-oriented activity or as an activity aimed at achieving consensus? The reflections here concern the essence, shape, condition, and assessment of dialogue in contemporary Poland. I am interested in how dialogue is defined and how dialogue is present in public life. The state of development of democracy, the public sphere, competences, and the level of engagement of the partners in the dialogue are important here, as are the values and ethical and legal norms (in Poland and the EU) creating the cultural context for the dialogue. I have observed the academic obligation to refrain from expressing my own opinions and axiological engagement in regard to the issue being studied.

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<sup>2</sup> Article I-47 of the European Constitution (the Treaty establishing a Constitution for Europe, EU Journal of Law, C310, vol. 47).

<sup>3</sup> Ibid.

### **Context of the Dialogue: Experience/Polish and EU Conditions**

In the second half of the twentieth century, the socio-political and economic systems of many countries began to undergo radical changes, particularly in the western part of Europe (Staniszki 2004). These were characterized chiefly by the decentralization and deconcentration of public power. The functioning of the entire state apparatus began to be reoriented. The insufficiency of extended bureaucratic structures became obvious and the state authorities were increasingly aware of difficulties in meeting citizens' needs and expectations. The remedy was considered to be the formation of closer relations with society. The state therefore initiated the process of sharing competences with local governments and social organizations. This led to the construction, through dialogue, of social ties and cooperation between three previously separate spheres, that is, the state, society, and the economy. Thus the process of dialogue, which came to be part of the concept of participatory democracy, was initiated and maintained.

In spite of solid treaty bases, civil dialogue at the EU level is characterized by comparatively weak institutionalization. Among other reasons, this is because civil dialogue is largely voluntary in nature. A closer look at the provisions of EU legislation shows that civil dialogue has its place and significance in the law and functioning of the EU. Nevertheless, within the framework of EU institutions the influence of this dialogue on EU regulations is not large (Rymśa 2007: 8).

Civil dialogue 'is neither a parallel nor complementary concept to the social dialogue. Civil dialogue has a generic nature and refers to public policy at large whilst social dialogue embraces the specific macro-economic sphere and is structured around clear objectives and standard actors—public authorities, employers, and workers' (European Commission, 2010). The main aim of civil dialogue is to raise the quality and legitimacy of political decisions in order to overcome problems arising from the stagnation of democratic processes and institutions. It is necessary for the resolution of complicated questions: multi-dimensional issues present in diffuse political spheres (Ianniello, Fedele, Brusati 2014: 260–262).

In the EU, civil dialogue is acquiring increasing importance in the decision-making process. As a basic element of participatory democracy it is becoming an integral complement to parliamentary democracy and social dialogue. It is particularly important in the context of the crisis of traditional forms of political participation (that is, participation in elections, and party and union membership) being experienced in countries with developed democracies. The principle of participatory democracy increasingly appears to be perceived as 'democracy's indispensable life-preserver' (Leś 2003).

Social dialogue in the EU concentrates on problems in the labour market and relations between employers and employees (industrial relations). At the EU level, a broad trend toward social consultations, in which many social and non-governmental organizations participate alongside employers' associations and unions, is developing. This type of dialogue is called civil dialogue and pertains to a broader array of matters than is dealt with by EU institutions. Consultations with local government organizations are a separate and important part of this dialogue (Grosse 2006: 114).

The spheres of social and civil dialogue only partially overlap. Thus the interpretation of social and civil dialogue adopted by the European Commission would seem to be justified:

It rests on the assumption that individual cases are consulted according to the object of their social impact. The question of labour relations has traditionally remained within the sphere of social dialogue. Nevertheless, civil society organizations are showing a growing interest in socio-economic issues that previously were mainly conducted through dialogue between employers, employees, and public authorities. One cause of such a situation is the spreading ‘social economy,’ which in addition to maximizing profits, formulates goals related to social development in the broad sense (Leś 2003: *passim*).

The lack of a mutually agreed definition of civil dialogue in the EU is curious given that dialogue’s role in the debate on governance, particularly in the EU, is growing. Developing parallel to social dialogue, civil dialogue refers more to a broad range of interactions between institutions and civil society organizations than to clearly established practices. As Jeremy Kendall (*ibid.* 2005) has shown, civil dialogue in the EU concerns mutual interactions between public institutions and civil society organizations; it goes beyond the exchange of information and communications, basing itself on mutual knowledge and relations; it involves various degrees of formalization—from informal to legally recognized structures; and it is characterized by multilevel engagement of civil society organizations—from transmitting information to consultations and active participation. In the process of creating public policy it appears in the following phases: establishing programmes, determining policy, decision-making, realization, appraisal, and feedback (Kendall 2005).

### **The Importance of Civil Dialogue in the European Union**

Civil dialogue does not stand in opposition to social dialogue nor is it a replacement for it. This is obvious in regard to particular interest groups and the Brussels administration. Civil dialogue fulfils the essential function of popularizing the intentions of the European Commission. It can also make a major contribution to strengthening identification with the EU among various social groups (cf. Grosse 2006: 115–116). The basic weakness of civil dialogue is that it only limitedly contributes to resolving specific problems in social and economic policy.

The delayed recognition of civil dialogue’s significance in the European Union should not conceal the existence of earlier formal and informal consultative practices. Alongside social dialogue and work with consultative bodies such as the European Economic and Social Committee (the EESC, an advisory committee for the European Commission and European Parliament), European institutions have collaborated with many consultative committees, including civil society organizations and other entities. The EESC acts as an intermediary between institutionalized civil society and EU decision-makers. It operates on the basis of the Treaty of Nice,<sup>4</sup> which specifies that the EESC ‘shall consist of representatives of the various economic and social components of organised civil society’ (art. 257). Civil society organizations are accorded the right to express opinions and consult documents concerning economic and social questions and the labour market on general principles.

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<sup>4</sup> Nice Treaty (officially, the Treaty of Nice) 26 February 2001, in Nice. The Treaty of Nice came into force on 1 February 2003.

Thus NGOs complement the work of an important consultative institution like the EESC.<sup>5</sup> However, they do not participate in the trilateral, or bilateral, EU institutions involved in industrial relations (Grosse 2006: 116).

In the opinion of the EESC itself, this increases its responsibility for ‘organizing discussions between representatives of civil society with differing motivations’ and ‘establishing genuine structured dialogue between such organizations and networks and EU institutions.’<sup>6</sup> The EESC thus facilitates the internal dialogue of civil society as well as the dialogue between it and institutions in four ways: 1) membership in Group III, (in addition to employers of Group I and employees of Group II, in Group III the EESC unites 99 representatives of ‘other parts of civil society’); 2) participation in EESC consultations, hearings, and conferences (in cooperation with other institutions, particularly the European Commission, the EESC plays an increasing role in organizing consultations, conferences, and hearings); 3) participation in groups of experts selected by the EESC in reference to a specific project/political proposal; 4) participation in a ‘Liaison Group’ between the EESC and representatives of the main sectors of organized EU civil society. European institutions have worked with many consultative committees, including with civil society organizations and other entities. In its communiqués of the 1990s the European Commission recognized the particular value added of participatory democracy, beyond expert knowledge. The majority of these communiqués aimed to define criteria of representativeness for the organizations the Commission consulted.<sup>7</sup>

Recognition of the role and significance of NGOs in establishing the European social order resulted in a move away from the concept of ‘government’ toward the idea of ‘governance,’ which presupposes the engagement of various social entities in the political process.<sup>8</sup> Increased interest in the role of civil society organizations is due to perception of their importance for deepening European integration and also for overcoming the democratic deficit caused by the lack of direct democratic mandate for EU organs (with the exception of the European Parliament). NGOs are also supposed to help bring EU institutions closer to citizens and give them the sense of influencing the shape of public policy.

An increasing number of EU institutions (above all the European Commission) are beginning to see that NGOs are desirable partners and participants in various types of consultations, conferences, or internet panels. Their positions or the opinions they express are treated as an important element of the public debate. NGOs enable EU organs to acquire a broader insight into the attitudes and opinions of citizens on important issues and social questions, particularly those that are not satisfactorily resolved by the policies of individual member countries (Groux 2003: 70–74). The EU thus opens a sphere of public debate to

<sup>5</sup> It should be emphasized that obtaining the Committee’s opinion is obligatory in many cases.

<sup>6</sup> See the European Economic and Social Committee, ‘Opinion on the representativeness of European civil society organizations in civil dialogue,’ 14 February 2006. ([www.EKES.europa.eu/?i=portal.en.civil-society](http://www.EKES.europa.eu/?i=portal.en.civil-society)).

<sup>7</sup> See the European Commission, ‘An open and structured dialogue between the Commission and Special Interest Groups,’ SEC (92) 2272 final, European Commission, ‘Communication on promoting the role of voluntary organisations and foundations in Europe,’ COM (97) 241, European Commission Discussion Paper ‘The Commission and Non Governmental Organisations: building a stronger partnership,’ COM (2000) 11 final.

<sup>8</sup> Broader use of the term ‘governance’ in the EU began from the moment the Committee published the ‘White Book’ in 2001 on the subject of governance in Europe, for the purpose of defining a new form of governing that was intended to bring the EU closer to citizens.

multiply opportunities for the democratization and legitimation of common policy. Furthermore, the EU puts the principle of good public governance into practice. Such a concept of governance, which emerged in the 1990s, was an answer to crisis phenomena connected with the transformation of the global economic system and the consequences for individual member countries and the whole European Community (Fazi and Smith 2006).

### Social and Civil Dialogue in Poland

Social dialogue is the historically original and basic form of organized civil dialogue with the public authorities. Its main aim is the peaceful resolution of conflicts in collective labour relations. With time, the range and content of the dialogue has undergone change and expansion. 'Social dialogue is a concept comprising all the mutual relations between labour unions and employers' associations. It is a systemic principle of democracy, a particular form of debate about social interests. Its participants are partners acting on the basis of equality of status and interests. Differences of opinion are countered through consultation, negotiation, and mutual concessions, aimed at concluding a social contract/agreement. In the broader sense, social dialogue refers to all forms of the public authorities' communication (at various rungs and levels of local government) with social partners representing the interests of various social groups inhabiting a given territory: civil society organizations, citizens' associations, or groups expressing civil protest. Social dialogue is an instrument of governance and a method by which the authorities and their social partners can agree upon common aims and the instruments and strategies of implementing public policy. The partners of social dialogue are local government organs, the organs of professional associations, labour unions, employers' associations, and other social organizations or representatives of the professional and creative spheres. Their rights and obligations, as well as their position and role in the dialogue, are defined by separate legal acts.'<sup>9</sup>

Social and civil dialogue practiced on the basis of pacts/agreements dates back to 1980. The Round Table Agreement established, among other entities, an institution comprised of representatives of the government, trade unions, and other signatories. Its aim was to monitor implementation of the agreement. However, due to the intensive transformation and changing political system, this institution ceased to function, as the country's fundamental political transformation could not be an object of negotiation with the extant interest groups. The role of these groups was undermined, which produced accusations of a top-down construction of the new social order (Gardawski 2008: 25; Gąciarz and Pańków 2001: 107). Thus, civil dialogue, like social dialogue, was considered from the very beginning to be part of 'bargain democracy,' in which a well-organized minority decides for the majority, and success-oriented activities predominate, as is proper for participants in the political sphere (Kaczocha 2004: 32). Trade unions ceased to be fully fledged partners of the dialogue when the Third Republic's sole pact, the 'Enterprise Pact,' was concluded as a result of the advancing process of privatization. Through the intermediary of the trade unions, the employees of privatized state enterprises were promised large shares in the enterprises' assets in exchange for agreeing to their sale. In 1994, the Social Dialogue Forum, a trilateral

<sup>9</sup> The website of the Ministry of Labour and Social Policy (May 2010).

council monitoring realization of the Pact's provisions, was established by a decree of the Council of Ministers as a further step.

As a result, social dialogue was institutionalized at the national level. The dialogue institution was composed of the signatories of the Enterprise Pact: members of the trade unions (Solidarity, the Poland Alliance of Trade Unions) and employers' organizations (privatized firms associated in the Confederation of Polish Employers and directors of state enterprises). In the beginning phase of the Commission's activity, the trade unions (mainly Solidarity and the Poland Alliance of Trade Unions) were politically engaged on the side of the government or political opposition. This allowed organizations to achieve the aims of employees directly within the structures of power without the necessity of participating in the Trilateral Commission. Nevertheless, the unions, being in opposition, boycotted its work, which meant that in the initial period no agreement was reached on any question (Gardawski, 2008: 25–28; 2009: 137–144). Trilateral dialogue did not serve either to legitimize the authorities' actions or to increase social agreement to the reforms they were undertaking. Here the most important weakness of social dialogue in such an institutionalized shape appeared.

The breakthrough occurred after the passage of the Act on the Trilateral Commission on Socio-Economic Affairs and Regional Commissions on Social Dialogue, thanks to which social dialogue at the central level was extended to the local level. The Commission acquired full representativeness by using numerical criteria. Its composition was broadened to include private employers' organizations (Business Centre Club and the Polish Confederation of Private Employers 'Lewiatan'), the Polish Craft Association, and the Trade Unions Forum for employees. The range of the Commission's powers was extended and its main aims came to be seeking and maintaining social peace, dialogue in questions of remuneration and social benefits, and advising on the budget act.

Poland primarily practices a trilateral social dialogue, concentrated on the representatives of professional and employers' unions. It is increasingly clear that for some time this has been an insufficient formula for regulating a number of fundamental social issues. Social dialogue has essentially been in abeyance since 2013, after leaders of Solidarity and the Poland Alliance of Trade Unions declared their suspension of participation in the Trilateral Commission. In this connection, certain authors treat the spread of civil dialogue as a positive and necessary phenomenon. The growing challenges in many areas of social life exceed the sphere of labour relations and require dialogue of a decidedly broader nature (Frieske 2005: 42–48). It is argued that dialogue should be extended to ever more areas of public life. That civil dialogue enables various forms of social participation—from achieving consensus to participation in public debate to direct participation in decisions of an administrative or political nature—was previously underappreciated but has now been noted.

In Poland, civil dialogue has not been unequivocally defined. A number of propositions have been made: it can be understood in the broad or the narrow sense. In the first, it arises from the democratic shaping of the public sphere as one of the basic forms of public discourse. Its inclusive nature allows engaged citizens to participate in the public debate and express views concerning (what they consider to be) important issues in the common sphere of social life. Thus citizens become able to influence public opinion and the nature of decisions.

Definitions of civil dialogue refer to the principle of governance. They concentrate on the institutionalized nature of such dialogue (organized civil associations, procedural frameworks) and emphasize its role in power-sharing and citizens' interests. To a lesser degree, they stress its role in shaping public opinion, and underline the processes of consultation, negotiation, and agreement. They do not indicate how agreements are to be reached, however. Civil dialogue's low level could be proven by the lack of reflection over means of achieving consensus and the fact that civil dialogue—as a form of participatory democracy—does not necessarily lead to consensus among the partners in the dialogue.

The ability of NGOs to conduct civil dialogue in Poland depends on many factors, including the current state of Poland's democracy and public sphere, but mainly on the condition of the third sector. Poland belongs to the group of countries where modern regulations concerning the third sector are in force and are fairly often amended for the sake of improvement.

### **The Ability of Polish NGOs to Conduct Dialogue**

There is no doubt that the development of civil dialogue over the last dozen or more years has helped to reinforce the participation of citizens in the EU model of conducting public policy. Poland's acceptance as a member of the EU is determining the emergence of a new model for civil activities (in this case, civil dialogue), shaped by application of EU procedures. Here I will attempt to answer the question of how the third sector in Poland is adopting the EU model of civil dialogue. The institutional conditions of civil dialogue appear to create bases for expanding a Europeanized system of governance in Poland. Do the principles prevailing in the EU strengthen the institutionalization of civil dialogue in Poland?

According to Marek Rymysza, the Polish model of cooperation between the public administration and NGOs established by the Act on Public Benefit Activity contains elements of competing systems: on the one hand, entities of the nongovernmental sector have a relative primacy in seeking to engage in activities for the public good; on the other hand, it was expected that these entities would compete, and commissioning tasks by tender is allowed if it will ensure greater effectiveness (Rymysza 2007: 11).

Nevertheless, in spite of the modern legal regulations, the nongovernmental sector in Poland is still poorly developed in comparison with western countries. As of 2012, over 80,000 NGOs, of which 11,000 were foundations and 72,000 were associations (not counting volunteer fire departments), were registered in Poland. Around three-quarters of these were active.<sup>10</sup>

The third sector in Poland is also internally varied in financial terms. Around 48% of Polish NGOs do not possess their own assets.<sup>11</sup> 73% complain of difficulties connected with acquiring funds, while around 25% of newly established organizations cease operat-

<sup>10</sup> Polskie organizacje pozarządowe 2012. Badanie aktywności obywatelskiej. Stowarzyszenia Klon/Jawor. Warszawa. 2013. [http://civicpedia.ngo.pl/files/civicpedia.pl/public/FaktyNGO\\_broszura\\_full.pdf](http://civicpedia.ngo.pl/files/civicpedia.pl/public/FaktyNGO_broszura_full.pdf)

<sup>11</sup> Polish NGOs, 2012 <http://www.ngo.pl/FaktyNGO2012/>. On the basis of research by the Klon/Jawor Association, 'The Condition of the NGO Sector in Poland in 2012.'

ing within the first three years because of financial difficulties. Financing for NGOs comes chiefly from the country's public funds. They constitute 37% of organizations' revenues, of which 18% come from national government sources and 19% from local government sources. The amount of public funds earmarked for financing NGOs is lower in Poland than in the countries of Western Europe. Revenues from member contributions amount to 7% and from economic activity 10%.<sup>12</sup> In 2011, the average budget of an NGO was 18,000 PLN. Nearly half (49%) of NGOs receive financing from local government funds: from the governments of municipalities and districts, from county authorities, and marshals' offices.<sup>13</sup>

In comparison with other countries of Eastern and Central Europe, Poland's third sector appears to be unusually strong, extensive, and effective, and this means that its development is heading in the right direction. Intersectoral cooperation and dialogue between civil society organizations and the public administration increased in 2012, especially at the national level.<sup>14</sup> Nevertheless, it should not be forgotten that Polish NGOs will not compare with those of countries in Western Europe for a long time yet.

In general, Polish NGOs are present to a negligible degree at the European level (whether in international coalitions or representing special interest groups), thus it is difficult to analyze their effectiveness. In comparison with the NGOs of Western European countries, Polish NGOs are decidedly less active at the European level and are not interested in the development of such activity. The underdevelopment of Poland's third sector in comparison with western countries and its small experience in acting at the international level means that Polish NGOs by definition have much less chance of exerting influence on the EU decision-making process.

Polish NGOs are slowly becoming open to EU dialogue. They are mainly interested in domestic problems, thus the EU perspective remains a novelty for them—even though since 2004 decisions made in Brussels have direct and increasing impact on the situation in Poland. Therefore, Polish NGOs' visible increase of activity over the past few years, which goes in tandem with the development of the third sector in Poland, should be considered a positive sign. Not only are an ever larger number of NGOs beginning to be interested in the EU level, but the NGO sector itself is slowly consolidating, thus enabling the emergence of domestic platforms that are examples of successful civil dialogue (for instance, Grupa Zagranica), and which have activity at the EU level as one of their main goals (Świeboda, Zerka 2009: 52, Witkowski 2015).

NGOs in Poland are structurally handicapped (they lack permanent and varied sources of finance, and thus are unable to join in the EU debate). They do not yet have networks of contacts in Brussels, nor the ability to orient themselves in the intricacies of the EU decision-making process. Thus even when NGOs decide to become active at the EU level, they still have a lot to learn before their activity can be effective (*ibid.*)

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<sup>12</sup> *Ibid.*

<sup>13</sup> Polish NGOs, 2012. [http://civicpedia.ngo.pl/files/civicpedia.pl/public/FaktyNGO\\_broszura\\_full.pdf](http://civicpedia.ngo.pl/files/civicpedia.pl/public/FaktyNGO_broszura_full.pdf). Research into civil activeness. The Klon/Jawor Association, Warsaw, 2013.

<sup>14</sup> The 2012 CSO Sustainability Index for Central and Eastern Europe and Eurasia. 16<sup>th</sup> Edition. United States Agency for International Development. Bureau for Europe and Eurasia Office of Democracy, Governance and Social Transition. <http://www.usaid.gov/sites/default/files/documents/1863/2012CSOSI.0.pdf>

In EU activity, Polish NGOs are predominantly differentiated by sector. They are engaged in such questions as Eastern policy, aid/development cooperation, and transformation. The activity of Polish NGOs is most visible in areas connected with defending the rights of specific social groups (for instance, the Federation for Women and Family Planning in regard to women's rights, or the Campaign Against Homophobia in regard to the rights of homosexuals). The most active among Polish NGOs are considered to be think-tanks (including the Public Affairs Institute, the Centre for International Relations, *demosEUROPA*—the Centre for European Strategy, and the Batory Foundation), but their activeness at the EU level is not very visible and is connected with the prestige of their leaders rather than the strength of their positions (*Witkowski 2015*).

At the EU level, the main internal hindrance to the development of dialogue is finance. The lack of instruments enabling Polish organizations to finance themselves over a longer period than a year prevents them from achieving a more professional level of activity. Acting at the EU level entails expenditures in order to be successful. As a result, NGOs that attempt to lobby at the EU level continue to be in a weak position. In contrast to the situation in Poland, in many EU countries the activity of NGOs (particularly think-tanks) is supported by the government because it is treated as an element of public diplomacy (*Świeboda, Zerka 2009: 59, Witkowski 2015*).

### **The Impact of EU Civil Dialogue**

The ideological influence of the EU makes civil dialogue in Poland subject, like other institutions, to the 'phenomenon of Europeization.' As a member of the EU, Poland is required by EU directives to introduce and conduct civil dialogue. However, it is difficult to perceive any essential social change in the sphere of adopting cultural models of European democracy. Polish society accepts structural funds and—in particular—agricultural subsidies, but—so far—its consciousness and civil-democratic culture have not changed much (*Gliński 2009: 46*).

The European model of civil dialogue makes it possible for NGOs to participate in decision-making processes and at the same time creates the danger of excessive corporatization of the civil sector. Long-term, systematic participation in bureaucratized negotiating and consulting procedures threatens to wrench parasol organizations from their social support through excessive specialization, technocracy, and a readiness to make compromises that are unacceptable or incomprehensible to public opinion (*Rym-sza 2008: 10*).

Civil dialogue as an instrument of participatory democracy is also exposed to another threat from 'Europeization.' This can occur when the development of certain types of formalized institutions of civil dialogue allows solely structures of a parasol or infrastructure nature access to the political process. The danger is that civil activities will become bureaucratized and oligarchies will be produced in the NGO sector (*Gliński 2002: 249; 2009: 44*). Phenomena hindering the proper conduct of dialogue are established in the practice of EU dialogue and contribute to these processes. The few analyses to have been made to date of

civil dialogue in the EU show that alongside the institutional structures of dialogue there are many factors that limit its democratic conduct. Among the most important of these are the lack of permanent and formalized structures; the lack of sufficient legitimization and transparency in regard to membership (for instance, lack of selection procedures); the lack of transparency in the criteria for choosing participants in hearings and consultations (in which individual, select NGO networks take part); the low level of formalization and transparency of dialogue (dialogue is organized on an ad hoc basis and on the initiative of civil organizations); the informal nature of contacts between EU officials and NGOs (which often rely on personal relations); the important role of informal groups (which form the main communication channel between the European Parliament and civil society organizations); the limitation on the level and variety of dialogue with the Council of the European Union; and frequent informal contacts occurring in the course of bilateral meetings of NGOs with European Commission officials. These types of contacts are viewed as a more direct and thus more effective channel of communication, open only to the best organized networks (Fazi, Smith 2006).

The impact of civil dialogue at the EU level on the state of civil dialogue in Poland would seem to be overrated. It is hard to demonstrate that European politics, political culture, and a new European participatory style of governing (a new 'governance') have influenced socio-political changes in Poland, particularly changes in the functioning of the civil sector. Studies of civil dialogue in the EU have shown that the participants in a dialogue often do not identify their intentions and expectations. Civil dialogue suffers from an asymmetry of information and the mutual deficits occurring in the interactions of the main actors. In engaging with citizens, the public authorities often have insufficient knowledge of their preferences. The citizens, on the other hand, lack sufficient knowledge of the processes and mechanisms of governing to enable them to monitor the authorities' activities (Iacuzzi, Ianniello, Fedele, Brusati 2014). The dominant nature of social capital means that the impact of Europeization is adapted to social capital's own logic and previous principles of functioning, to the clear detriment of support processes and the development of civil society in Poland (Gliński 2009: 46–47).

The mechanisms of Poland's 'Europeization,' which mainly support the autonomy of the executive and administration (the government, experts, and civil servants), have preserved the domination of an elite and spread social apathy in the public sphere (Jasiecki 2008: 374–375). The public sphere, as a field for the critical use of reason, was supposed to be a bridge between politics and morality. The Kantian principle of the 'private use of reason' signifies the expression of people's own opinions, and thus the public use of reason. As a sphere of the public use of reason, the public sphere was perceived as a world of critical debate conducted by the public. Citizens, who do not participate directly in the decision-making process, were to acquire the ability to influence their representatives in power through the channels of public communication (jumlink4Misztal2011Misztal 2011: 34). These divergences mean that the world of administration (the technocratic world of procedures) and the civil world of public debate (based on the Kantian principle of the public use of reason) are usually unable to meet, let alone work together effectively. It is indubitable that understanding and cooperation in spite of these differences requires considerable engagement by both sides.

### Do Poles know how to Debate?

The mechanisms of civil dialogue in Poland function and are integral to it. In the institutions of social dialogue that have been preserved in Poland, civil dialogue is often evoked as an ideal by various parties. It constitutes a kind of façade but in practice remains absent. The political and government elites have neither sufficient knowledge nor experience about the mechanisms of dialogue. It would seem that the government, as manager of the civil dialogue, bears a larger share of responsibility for this state of affairs. The political and government elites are unable or unwilling to develop a coherent vision of the role and place of dialogue, with the result that it is weak and chaotic in nature (Schimanek 2007: 44–52, 2008: 28–35). Dialogue is treated superficially and instrumentally. There is a lack of legal solutions, while those that exist are to a large degree conditioned by political and economic factors. The present legal situation is quite insufficient, while the proposed ethical solutions for the conduct of dialogue are not observed. Both the institutions of civil dialogue and civil dialogue in institutions of social dialogue are very poorly ‘encased’ in legal regulations. The existing laws in this sphere are generalized, imprecise, and in places unclear, which considerably weakens the dialogue being conducted, and also weakens its institutions in the view of the government, civil partners, and public opinion. The generalized nature of the regulations leads directly to their free interpretation, sometimes entirely contrary to the spirit of the law while according with its letter, which is furthermore blurred by the government. To a large degree this imperfection of the law results from the lack of a clear and precise vision of the functioning of the institution of civil dialogue in Poland (Schimanek 2007: 50).

In practice, civil dialogue does not contribute much to the realization of public policy. It is an ineffective instrument of public governance in terms of improving the effectiveness of public policy, accelerating the legislative process, or enriching the public debate with postulates of importance to its social partners (Fałkowski, Grosse, and Napiontek 2006: 99). The superiority of inclusive social capital means that the superficiality of the dialogue is accompanied by the building of networks of informal contacts between the dialogue’s participants (Putnam 2008: 36). In the current state of dialogue, a great deal still depends on the personal motivation and engagement of civil servants and members of civil organizations. In the conviction of the participants in the dialogue, such contacts are essential and morally correct, even though they collide with the established procedures for conducting the dialogue. This is a kind of reaction to excessive institutionalization of the third sector and the maintenance of a bureaucratized style of collaboration (Schimanek 2007: 44–52, 2008: 28–35). This type of activity could be interpreted as a defence mechanism against a kind of dehumanization of mutual relations. In small localities, unofficial collaboration results from the private contacts of NGO members with civil servants. It is recognized that such relations benefit cooperation (Niewiadomska-Guentzel 2008: 65; Makowski 2008: 36). However, in practice it also favours unfair competition and abuses: for instance, in organized competitions whose results are determined before the competitions are announced (*ibid.*). A similar phenomenon is found in social dialogue. Juliusz Gardawski defined it as the use of ‘by-passes’: that is, the avoidance of procedures in order to arrange matters directly with representatives of the parties involved, in transgression of

the obligatory standards of cooperation (Gardawski 2005: 246 et seq.; Schimanek 2007: 20; 2008: 32).

Dialogue has been burdened to a large degree by negative stereotypes and biases. During dialogue, the real conditions and limitations on a resolution to the initial problem cease to count, while the main subject of debate comes to centre on establishing who is 'responsible' for the existing situation, with the sphere of responsibility being transferred to the moral plane. The culture of dialogue is characterized by a tendency to negative dialogue, conducted for the purposes of social protest and not for seeking compromise. The existing institutions and procedures do not facilitate the seeking of agreement but are often used to block talks during negotiations (Fałkowski, Grosse, Napiontek 2006: 110). The result is to strengthen a kind of strategy of negotiation borrowed from the field of political struggle and consisting in the attempt to discredit the partner of the talks. A conflict of interests is transformed into a conflict of values. The struggle is conducted for the purpose of excluding the other side's participants from the public sphere and reducing them to social insignificance (Hausner, Marody 2001: 114–144).

Lack of basic knowledge on the subject of the forms and technique of conducting dialogue, which often determines the attitude of the partners and the outcome of the talks, is one of the obstacles to dialogue. There is a lack of experience in conducting dialogue with the authorities (Schimanek, 2007: 51–56, 2008: 36). The embedding of civil dialogue in the political sphere, as occurs in the case of social dialogue, is also important (Fałkowski, Grosse and Napiontek 2006: 106). This is accompanied by the government's subordination to itself of the institution of civil dialogue and the manipulation of partners for the purpose of legitimizing its decisions (Schimanek 2007: 44–45). Neither the central government nor local governments have the habit or tradition of cooperating with NGOs.<sup>15</sup> An additional factor hampering the conduct of dialogue would seem to be the public authorities' tendency to negotiate the process of decision-making with the interested parties from the beginning, relinquishing control of the dialogue while simultaneously maintaining the ability to manage relations strategically with the participants of the dialogue (Iannello, Fedele, Brusati 2012: 275). Furthermore, not many organizations employ professionals, who know the processes for creating public policies. There are very few such specialists in Poland. A situation often arises where, if the government desires to know the views of an NGO, that organization can with difficulty allow itself to take full part in consultations. The majority of NGOs are young structures with modest (or nonexistent) resources, where opinions of the following type prevail: 'Since we were established there have been continual changes in government and politics (...) we have so much to do we should concentrate on domestic affairs, but we will attempt to apply EU standards while lobbying our government' (Fazi, Smith 2006).

Civil organizations do not meet with proper support from the public administration. Furthermore, they do not know how to defend themselves effectively against manipulation, reacting with distrust and criticism or easy acceptance of government proposals. As a result, NGOs lack balanced strategies for constructive activity that they can express through independent formulations of their position in regard to the government (Schimanek

<sup>15</sup> This idea about civil dialogue in Poland was formulated by Fazi and Smith, authors of a report on the state of European dialogue in selected countries of the EU.

2007: 46). NGOs' lack of experience in communicating with the authorities is closely related with their susceptibility to manipulation by the government administration. Such manipulation consists in limiting access to accurate information, or any information—a proceeding that successfully blocks the activities of NGOs. This situation is additionally exacerbated by the financial dependence of the third sector on government subsidies. The government seemingly tries to utilise this relation at times and NGOs are inclined to accept the situation because they have long years of experience in dealing with a government administration that does not treat them as equal partners. In the present situation, it is difficult for them to criticize or disagree with the decisions of the authorities (Schimanek 2007: 46).

In social as in civil dialogue a corporate, or neo-corporate, model of dialogue is used. The Polish model of civil dialogue is described as neo-corporate (Gardawski 2009). It falls within the scope of bargain democracy, in which the interests of various social groups collide and authorities decide on a settlement. Max Weber points to the representatives of interest groups as one such authority. He speaks of them as representative bodies whose aim is to ameliorate disputes by way of compromise. Currently, we have this phenomenon in the form of corporatism or neo-corporatism, as a mediation of the interests of individual noncompeting groups fulfilling different functions.

In democratic countries, interest groups influence the political decisions of the state and also participate in the shaping of public policy (Weber 2002: 226). The issues of neo-corporatism and social dialogue are often closely connected. The arrangements used in neo-corporatism are an essential component of the broader institution of social dialogue, which favours the articulating and defence of individual interests, and not the seeking of consensus and the relinquishment of given requirements in the name of coming to an agreement for the common good. This is the corporate model of struggling for gain rather than the path to an agreement. In the case of civil partners, the battle of interests has acquired a monstrous dimension on account of the above-mentioned differentiation of the NGO environment and the weakness of the mechanisms for producing representatives in this milieu.

These are not solely Poland's experiences, but also those of many member countries of the EU and other countries where the corporate model is in use. In all these countries similar problems appear, with various force, in connection with representativeness, the lengthening of the consultation process, or the instrumental use of the institution of dialogue (Schimanek, 2007: 44–56, 2008: 28–34).

To compete with the concept of corporatism, Tomasz Zarycki (2015) formulated an interesting hypothesis about dialogue in Poland, claiming that dialogue, or other civil society mechanisms, are controlled and evaluated by representatives of the intelligentsia in terms of that group's values and hierarchy. This is shown by diagnoses and opinions formulated on the basis of criteria such as the 'culture' (particularly personal culture), 'intellectual class,' or 'openness and trust' and so forth of the participants in a dialogue. The play of interests between the representatives of various social groups, whose forum is theoretically supposed to be the institution of social dialogue, is not very significant here. The dialogue conducted through their intermediary serves the interests of its specific participants more than the environment they are theoretically supposed to represent. This has produced the notion that the well-known argument about 'the intelligentsia's betrayal' of Solidarity, pre-

sented in the work of David Ost (2007, Zarycki 2015: 70–78), should be interpreted in precisely such categories.

Similar phenomena can be found in the civil dialogue at central EU levels and in Poland. Just as in the EU dialogue, in the civil dialogue in Poland, alongside the institutional structure of dialogue, there are many factors limiting the democratic conduct of dialogue: in the EU and in Poland there is a lack of permanent and (until recently) formalized structure for dialogue; a lack of sufficient legitimation of civil organizations; at both levels of dialogue, a lack of transparency about the criteria of selecting the participants in hearings and consultations, generating problems in establishing the criteria of representativeness of NGOs participating in consultations; a low degree of formalization and transparency characterizing EU and Polish civil dialogue; and a reliance on informal contacts, or often personal relations, between civil servants and NGOs, as these are perceived as being a more effective communications channel. Phenomena that are preserved in the EU dialogue and hamper the effective conduct of dialogue are also present in the Polish civil dialogue.

Analysis of dialogue in Poland has shown that Habermas's theory of communicative action (Habermas 2006, 2006a) is not very useful. In his theory, civil dialogue between public authorities and NGOs is treated as a form of communication between the state and the lifeworld (*Lebenswelt*). Civil dialogue, according to the theory, is to serve to free citizens from the internal logic of the economic system and the state (steering between money and the authorities). Comparing Habermas's theory with empirical facts about civil dialogue in Poland indicates that:

- Civil dialogue in Poland does not aim to 'arrive at a communicatively achieved concord'; it is not a type of activity aimed at obtaining an understanding. Communicative activity serves to coordinate activity through agreement, while the essence of civil dialogue is not to conclude pacts, as in social dialogue, but the possibility of participating in decisions made by the public authorities.
- Civil dialogue in Poland is dominated by a type of rational, goal-oriented activity directed at the achievement of specific aims, which are treated as tasks to accomplish. Habermas defines them as strategic activities (Habermas 1999). They are undertaken in regard to both things and people. When individuals and collectives are treated as things, they become objects of manipulation. In such activities, success matters above all. It is a sphere of battle, as is demonstrated by the numerous examples of conflict and of instrumental treatment of the principles of civil dialogue. In practice, civil dialogue often leads to manipulation, feigned activities, or the circumvention of not entirely transparent procedures. All the partners in the dialogue strive, by all these procedures, for their own advantage. Thus it is not communicative action in Habermas's understanding. It is not in the nature of a democratic shaping of opinion influencing the establishment of limits and exchanges between the communicatively structured sphere of the lifeworld and the state.
- Public opinion, which is the work of many associations that are 'essentially public in their structures and nature,' does not create civil dialogue (Cohen and Arato 1997). Thus the aim postulated by Habermas of restoring public discussion at all levels of society is not met. The elitist model of the public sphere in Poland excludes numerous

social categories of Poles from the dialogue. Thus there can be no speaking of the restoration of public discussion at all levels of society.

- Contrary to Habermas's postulates, civil dialogue does not create a new form of social ethics, enabling the creation of a new social order based on communication free of interference and political domination. It can not be said that in Poland a dialogue, open to everyone capable of participating and acting within its framework, has been produced (Cohen 1995: 84). The premises and principles of civil dialogue, which enable its participants to achieve consensus in shaping social norms, are not observed in the present dialogue. The transgression of ethical standards by the parties to the dialogue prevents the creation of normative content for social life.
- Habermas ascribes to deliberation such traits as, for instance, the clear or open nature of a dispute conducted in goodwill, and freedom from coercion, to ensure equal opportunities of being heard (Habermas 2005: 324–325). The lack of transparency in civil dialogue in Poland and also the informal contacts, often based on personal relations, between civil servants and NGOs, prevents it from being considered a deliberative model.
- The hypothesis was not confirmed that Habermas's concept is normative for civil society's culture of dialogue with the authorities. It does not enable diagnosis of the existing social conditions. Civil dialogue in Poland is not a type of communicative action and the trend of changes occurring within it cannot be observed (Misztal 2011: 217–218).

### Conclusion

The institutional solutions concerning social and civil dialogue adopted in Poland and also the theory, tools, and methods used to describe and interpret them are most often of an imitative nature. As a result, a hybrid conglomerate has arisen of institutional solutions created on the model of the institutions functioning in the organizational structure of EU countries. The structure and manner of functioning of these institutions is most often analyzed using theories borrowed from the academic literature of European or American sociologists. This article has shown that the 'Europeization' of dialogue, as an import of EU ideology, includes its undesirable traits as well. Piotr Gliński's idea about the negative impact of Europeization, as being harmful for the processes of supporting and developing civil society in Poland, has been confirmed (Gliński 2009: 47). Neither social dialogue nor civil dialogue operates to produce the desired results. Because they do not fulfil their basic goals, they produce a permanent institutional and intellectual crisis. How then should the intellectual mechanisms creating real conditions be approached in order simultaneously not to undermine the socially prevailing version and to create a world better adapted to human expectations and possibilities? One answer is to point out the two main factors necessary for the improvement of civil dialogue, or that would at least enable more successful attempts at dialogue. These factors are structures and relations. What is meant is the existence above all of an organized and systematic approach to the decision-making process. This is an essential condition for the successful inclusion of interested parties and true participation in dialogue. The ability of the partners to have a more systematic influence through the process of dialogue would thereby be increased. Second, greater attention should be paid

to strengthening and deepening the interaction between the public authorities, agents, and interested parties. This means establishing possibilities for a real, and not symbolic, full participation, to produce the deeper engagement of interested parties. The rather too modest number of studies devoted to issues of civil dialogue means there are not yet many proofs that the engagement of citizens in the general strategy could improve the effectiveness of decision-making and civil dialogue. Nevertheless, its use would permit existing measures to be enriched, increase the alternatives, further responsibility and transparency, and also allow for ‘localization,’ that is, for decisions to be grounded in social reality.

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