

The Changing Pattern of Social Dialogue in Europe and the Influence of ILO and EU in Georgian Tripartism

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Abstract

This paper aims to analyse the establishment of *tripartite social dialogue* practices at national level in the Republic of Georgia. The introduction of such practice is the result of European Union's political pressures, International Labour Organization's technical assistance and international trade unions confederations' (namely the ETUC and the ITUC) support. After describing the practices of social dialogue in Western and Eastern Europe, the paper outlines, with a comparative viewpoint, the process that led to the establishment of a national commission for a tripartite social dialogue between government and organized social partners in Georgia. A particular attention is paid to the pressure, leverage and technical help provided by the aforementioned international actors in this process. Moreover, the research illustrates the main achievements and failures of tripartitism in Georgia, as well as the principal constraints that limit the effectiveness of this practice. It is therefore analysed the influence that possible future development of tripartite dialogue between government and social partners can have on the social, economic and political development of the country as a whole.

Introduction

The tripartite Social Dialogue - which includes all types of negotiation, consultation or simply exchange of information between representative of governments, employers and workers - is a fundamental part of the European Social Model (ESM)'s development agenda and a basic inspiring pillar of the International Labour Organization's (ILO) activities.

After the Rose Revolution, in Georgia, various *liberal* socio-economic reforms have been adopted¹ and no space has been provided for social dialogue, neither at the national nor at the firm level. In 2009, after political pressures of European Union (EU) and thanks to ILO's technical assistance, a Tripartite Social Partnership Commission (TSPC) was finally established in the country. In 2012-13, parliamentary and presidential elections led to a change of the ruling

¹ Waal de, T., *Georgia's Choices: charting a future in uncertain times*, Carnegie Endowment for International Peace, Washington D.C., 2011.

political forces. The new government provided a stronger institutionalization of the TSPC and substantially amended the *hyper-liberal* Labour Code, in line with ILO core labour standards. In addition, the new labour legislation provided the legal framework for a governmental mediation role in labour disputes at company level. And from a wider perspective, political and legal changes created a potentially new environment for industrial relations in the country. Nevertheless, the social dialogue institutionalization did not lead to a clear improvement of social partnership in Georgia.

The scope of this paper is to outline the process that induced to the creation of a TSPC in Georgia and the nature of pressures, leverages and technical help provided by EU, ILO and the European Trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC). In addition, the paper will describe the first years of tripartism activities and briefly analyse its failures and achievements. Furthermore, the research aims at investigating how the activity of external actors on the one side and of Georgian trade unions on the other, influenced the pattern of industrial relations in the country through the practice of tripartite social dialogue. The paper adopts combined methods of research: qualitative in-depth interviews with representatives of social partners, members of the Commission; semi-structured interviews with experts; as well as literature review.

The paper is divided in two main parts. In the first part, social dialogue in general is defined, describing the actors involved, its practices and working conditions, the issues discussed and the agenda as well as its potential risks and opportunities. Consequently, the paper will briefly outline the development of social dialogue as a principle in the main conventions and resolutions of ILO and as a practice in the organization's work.

Moreover a definition of ESM is delineated by looking at the differences among EU member states and at the role that social dialogue plays in this developmental model. Then, the analysis will reconstruct the role of social dialogue at both supranational EU and national levels and discuss how the social partnership has been changing in the last decades. An attempt to define these changes follows, investigating how tripartite concertation has evolved, for which reasons, with what outcomes and which theories would better describe these changes. Furthermore, the paper continues by focusing on the role of tripartism in the Central and East European countries' transition. Here are analysed some of the theories that study the relation between transition to market economy, tripartism, role of labour movements and the consolidation of liberal democracy.

Given the changing patterns of social dialogue and the role it played in transitional countries, the second part of the paper analyses the Georgian experience of tripartism. More specifically, it investigates the models of development and the shapes of industrial relations adopted in Georgia

after independence while outlining the role played by social partners (focussing on labour). The paper analyses the first *inertial tripartism* adopted during Saakashvili's period and the improvements in the labour relations' legal frame that occurred after the change of government in 2012. Moreover, the analysis continues by outlining the current practice of social dialogue at the national level and the overall nature of industrial relations in the country. Perceptions, expectations and roles of social partners and of the government concerning the social partnership process are scrutinized, trying to outline the possible future scenarios. In this last part, the paper evaluates the role of external actors in shaping the system of industrial relations in Georgia through the pressures that led to tripartism. Finally, the analysis assesses the social partnership in Georgia through the lens of Central and Eastern Europe (CEE) transition experiences, trying to outline comparatively, possible future benefits and shortcomings of a successful (or not), tripartism in the country.

Social dialogue: actors, issues and features

The broad literature on social dialogue lacks a unique conceptual definition while the practice of social dialogue encompasses different arrangements.² This section outlines the main characteristics, conditions, outcomes, practices and institutions of social dialogue, following the working definition as established by the ILO.

According to ILO's working definition, social dialogue includes "*all types of negotiation, consultation or simply exchange of information between representative of governments, employers and workers, on issues of common interest relating to economic and social policy*".³ The cooperation occurring among social partners involved in social dialogue practices is generally defined as social partnership and the definitions and usage of social dialogue and social partnership seem to be interchangeable.

Social dialogue may have various degrees of participants' engagement, various institutional shapes as well as various purposes and outcomes. The lowest degree of engagement in social dialogue is limited to an *exchange of information*. Parties are not committed to engage in a decision-making process; however, they perceive the partnership as a process through which the position of the actors involved in the dialogue are acknowledged. This kind of social dialogue

² Ishikawa, J., *Key Features of National Social Dialogue: A Social Dialogue Resource Book*, International Labour Office, Geneva: ILO, 2003, p. 3.

³ *Ibid.*

implies only a certain degree of confidence between the involved parties while their cooperation is limited.⁴

On the other hand, *consultation* between parties entails a stronger degree of commitment and trust among participants, which “*not only share information but also engage in more in-depth dialogue on the issues raised. While consultation itself does not carry decision-making power, it can take place as part of such a process*”.⁵ Through consultation, parties have the opportunity to express their opinions and to respond to others’ point of view on the issues discussed while the process can often lead one of the parties to reconsider its position.

Negotiation requires a high level of trust and commitment given the aim of reaching a common agreement on specific issues. During negotiations, parties are not only required to listen and express positions and opinions; they are also involved in a process that brings a mediation and a potential compromise for a common accepted solutions.⁶

*Collective bargaining*⁷ and *policy concertation*⁸ can be considered the two dominant types of negotiation. A successful bargain leads to the draft of a collective agreement. Collective agreements may be centralised at the national level or decentralised at sectoral, regional or enterprise levels. Likewise, a successful policy concertation leads to social pacts that, broadly speaking, can encompass general and non-binding joint declarations of intents or widely publicized tripartite agreements on detailed issues.⁹

Social dialogue can involve the government as an official participating actor or as a mediator. Depending on the modalities of governmental engagement, social dialogue can be tripartite, when the government participates on an equal footing with social partners, or bipartite, when

⁴ ILO, *National tripartite social dialogue: an ILO guide for improved governance*, International Labour Office, Social Dialogue and Tripartism Unit, Governance and Tripartism Department, Geneva: ILO, 2013a, p. 26.

⁵ *Ibid.*

⁶ Ishikawa, J., *Key Features of National Social Dialogue: A Social Dialogue Resource Book*, p. 3.

⁷ This paper follows the Article 2 of the ILO Collective Bargaining Convention, 1981 (No. 154), that defines collective bargaining as: “*all negotiations which take place between an employer, a group of employers or one or more employers’ organizations, on the one hand, and one or more workers’ organizations on the other, for: determining working conditions and terms of employment; regulating relations between employers and workers; regulating relations between employers or their organizations and a workers’ organization or workers’ organizations*”.

⁸ Policy concertation has been defined in different ways. As in Ishikawa (2003, p. 3), this paper consider policy concertation as defined by Compston: “*the codetermination of public policy by governments, employers’ organizations and trade union confederations,*” in: Compston, H., “The Strange Persistence of Policy Concertation” in Berger, S. and Compston, H. (eds.), *Policy Concertation and Social Partnership in Western Europe: Lessons for the 21st Century*, Oxford: Berghahn Books, 2002, pp. 1-18.

⁹ ILO, *National tripartite social dialogue: an ILO guide for improved governance*, ..., p. 31.

the government acts as a mediator or it is completely absent and thus the dialogue is only between labour and management.¹⁰

As Ishikawa puts it, “*there is no limit to issues that can be covered by tripartite consultation*”¹¹. Indeed, the agenda of social dialogue may include not only issues related to wage and labour relations (like the settlement of dispute mechanisms or collective bargaining rules), but also broader macroeconomic policies. A broad social dialogue can discuss structural reforms, employment and active labour policies, taxation, fiscal and trade policies, poverty reduction strategies as well as social protection and welfare policies.¹²

Participation in the process of social dialogue, especially at the national level, involved in some cases more stakeholders in addition to unions and employers, such as NGOs, non-profit organizations, consumers groups and other groups of interest representing categories not usually included among the traditional social partners.¹³ This “augmented” social dialogue has been named *Tripartite Plus Social Dialogue* and welcomed by ILO¹⁴ as a mean to make the dialogue stronger and more inclusive, while still keeping the central role of the traditional actors.

Social dialogue’s effectiveness depends on the presence of certain enabling conditions¹⁵. Firstly, it is important to take into account the nature of the social partners, since only legitimate, representative and independent social partners can build trust and consensus necessary for credible results. Secondly, a broad political environment built on democratic principles, mutual respect, and protection of different interests in the society is also essential. Thirdly, freedom of association is an essential condition for an effective dialogue. More specifically, this feature includes the freedom of organization and protection of collective bargaining for the parties, the absence of influence from external actors and internal democratic working conditions, transparency and representativeness of unions and employers’ organizations.

Although the conditions for an effective social dialogue may seem demanding, the benefits of a successful process are several. Firstly, social partnership is an inclusive and democratic instrument of policymaking. Indeed, it is a tool to include social partners in the political process through a less adversarial and conflicting frame, since dialogue and social partnership can

¹⁰ A specific case of bipartite social dialogue involving the government occurs when the government itself is involved in the role of employer, i.e. in social dialogue in public sector activities.

¹¹ Ishikawa, J., *Key Features of National Social Dialogue: A Social Dialogue Resource Book*, p. 15.

¹² Again Ishikawa (2003: 15-18) identifies “*narrow*” and “*broad*” forms of social dialogue, according to the issues discussed during the process of partnership.

¹³ ILO, *National tripartite social dialogue: an ILO guide for improved governance, ...*, pp. 15-16.

¹⁴ The ILO acknowledged the increasing importance of Tripartite Plus “*recognizing the potential for the International Labour Office to collaborate with civil society following appropriate consultations with the tripartite constituents*”, in ILO, “Resolution concerning Tripartism and social dialogue”, *International Labour Conference*, 90th Session, Geneva, 2002b.

¹⁵ Ishikawa, J., *Key Features of National Social Dialogue: A Social Dialogue Resource Book*, pp. 9-12.

minimise conflicts by promoting social peace and leading to better-informed and sustainable policies¹⁶. The higher the quality of the information and the degree of cooperation between government and societal interests' groups, the higher the possibility of a successful implementation of policies supported by (or at least in the acquiescence of) the social partners. Indeed, this mechanism makes these actors co-responsible for the implemented policies.

Social dialogue is effective in coping with the need of tough macroeconomic adjustments, and from this perspective its role becomes crucial during economic hardship and transition periods.¹⁷ Indeed, a functioning social dialogue can lead to more inclusive discussions and implementation of public policies and strategies, promoting at the same time cohesion and development and minimising negative effects of government's unilateralism. Furthermore, social dialogue provides fora where social partners can discuss issues of common concern in a cooperative way, without denying however, the existence of conflicting interests.

However, despite the potential positive outcomes listed above, some meaningful objections to the tripartite process in policy making may be identified¹⁸. Firstly, there is the risk of "dilution" of the parliaments' role in the decision-making process. Indeed, if structural reforms and other important policies are decided by governments and social partners without sufficient involvement of parliaments, a shift of powers from legitimate democratic and representative institutions towards well-organized associations of specific interests may arise. Consequently, the tripartite process may lead to a lack of legitimacy of the decisions taken, thus nullifying the benefit of social dialogue as a shared process of policymaking. This risk dramatically increases with the decreasing representativeness and legitimacy of workers' and employers'. The declining representativeness of social partners is a widespread phenomenon due to the trend of falling union density rate in traditional highly unionised sectors, and the growing categories of non-unionized workers in the informal sector,¹⁹ (atypical and short term jobs, self-employed etc.).

Although these risks can be minimized with an assertive action of social partners aimed to include the excluded categories and by coordinating the activities of social dialogue fora with parliament, the social partnership process remains often too demanding and time-consuming. Moreover, even by meeting all the conditions required for an effective concertation, natural and

¹⁶ For a brief overview of the potential benefits of social dialogue and for examples of successful political measures based on social partnership processes, see Ishikawa, J., *Key Features of National Social Dialogue: A Social Dialogue Resource Book*, pp. 27-35.

¹⁷ As ILO (2013a: 31-33) illustrates, successful concertation can be an important instrument in dealing not only with transition to democracy and market economy but also with structural adjustments necessary to cope with new monetary policies regimes, new trade rules and so on.

¹⁸ For a brief overview of pitfalls, criticisms and objections to social dialogue practices see Ishikawa (2003: 12-13) and ILO (2013a: 72-76).

¹⁹ See ILO, "Decent work and the informal economy", Report VI, *International Labour Conference*, 90th Session, Geneva, 2002a.

legitimate different political positions and conflicting interests can prevent the achievement of mediated consensual solutions.

Social Dialogue and ILO

Tripartism and social dialogue are a crucial part of the principles, functioning and aims of the ILO.²⁰ A brief description of the role played by ILO in defining and spreading social dialogue practices, may be helpful to better understand the importance of social partnership by bridging the theory with the multi-faceted reality of conventions, resolutions, laws and practical arrangements.

ILO can be considered the first and greatest promoter and partisan of the widespread implementation of social dialogue in its member states. The organization was founded in 1919 as part of Versailles Treaty, after First World War. In its founding preamble it was already recognized that a lasting peace may be achieved only on the basis of social justice.²¹ Furthermore, since then, its organizational structure is based on the principle of tripartism, with representatives from workers, employers and governments, each with equal powers.

In the *Declaration of Philadelphia* in 1944, the ILO reaffirmed the Tripartism as the fundamental inspiring principle for its activities, and took the “solemn obligation” to promote in the member states “*the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures*”.²² Nowadays, ILO remains the only tripartite agency of United Nations and therefore “*the most advanced and institutionalized forum for social dialogue providing a unique platform for tripartite cooperation*”.²³ During these last years, ILO promoted the drafting and ratification of a wide number of international conventions and acquired worldwide recognition as a centre of analysis and research in the field of labour issues.

²⁰ For a comprehensive review of origins, history, outcomes and promises of the ILO see Rodgers, G., Lee, E., Swepston L. and Van Daele J., *The International Labour Organization and the quest for social justice, 1919–2009*, International Labour Office, Geneva: ILO, 2009.

²¹ Crouch, in his rich historical research of the changing European industrial relations systems and of the role of political systems in pursuing new balances between capital and labour, puts it like this: “*In recognition that the social conflict was potentially as vast as the military one, the Treaty of Versailles included clauses establishing the ILO (initially a potentially international corporatist institution) and committing the nation to a new incorporation of labour*”. In: Crouch, C. J., *Industrial Relations and European State Traditions*, Oxford: University Press, 1993, p. 126.

²² ILO, “Declaration concerning the aims and purposes of the International Labour Organization”, *International Labour Conference*, 26th Session, Philadelphia, 1944.

²³ ILO, *National tripartite social dialogue: an ILO guide for improved governance*, p. 164.

In the 1998, with the *Declaration on Fundamental Principles and Rights at Work*²⁴, the organization paved the way to a worldwide-recognized set of minimum labour rights.²⁵ *Rights at work* became only one part of the strategic objectives of ILO's action. Indeed, in the following years other declarations and resolutions connected the rights at work with the recognition of other three main objectives, namely: the promotion of employment, social protection and indeed, social dialogue and tripartism.²⁶

Furthermore, in the *Resolution concerning Tripartism and social dialogue* adopted by the International Labour Conference in 2002,²⁷ social dialogue has been recognized as “a central element of democratic societies.” In the same document tripartism is recognized not only as a valuable result *per se* but also a tool to “address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues on which the social partners play a direct, legitimate and irreplaceable role”.²⁸ Again, in the same resolution the conference of ILO agreed on recognizing the potential of a constructive cooperation with the *civil society*,²⁹ though still reaffirming the central role of social partners as tripartite constituents. Moreover, the member states are invited to ensure the existence of all the necessary conditions for an effective social dialogue. These conditions are “respect for the fundamental principles and the right to freedom of association and collective bargaining” and development of a “sound industrial relation environment and respect for the role of the social partners”.³⁰

On this domain, the resolution expresses the commitment of ILO to strengthen employers' and workers' organizations and to consolidate the tripartite nature of its institutions. It reaffirms also the importance of respect and implementation of core labour standards and freedom of association and collective bargaining as deeply connected with social dialogue practices, both as preconditions and results of a solid social partnership.

The *Declaration on social justice for a fair globalization*³¹ clarifies the action of ILO in the light of the new challenges of a globalized world of work. In the declaration, social dialogue and tripartism is acknowledged as the most appropriate method to bridge economic development and

²⁴ ILO, “Declaration on Fundamental principles and rights at work”, *International Labour Conference*, 86th Session, Geneva, 1998.

²⁵ The minimum rights at work, also known as *Core Labour Standards* are in the 8 Core ILO Conventions and deal with 4 main area: the freedom of association and collective bargaining, the elimination of forced labour, the elimination of child labour; and the elimination of discrimination in respect of employment and occupation.

²⁶ ILO, “Declaration on Social Justice for a Fair Globalization”, *International Labour Conference*, 97th Session, Geneva, 2008.

²⁷ ILO, “Resolution concerning Tripartism and social dialogue”, 2002.

²⁸ *Ibid.*, appendix.

²⁹ In the format we mentioned above named Tripartism plus.

³⁰ ILO, “Resolution concerning Tripartism and social dialogue”, 2002, par. 3.

³¹ ILO, “Declaration on Social Justice for a Fair Globalization”, *International Labour Conference*, 97th Session, Geneva, 2008.

social progress, facilitating consensus and building effective labour laws. Once more, social dialogue emerges not only as an outcome to be achieved *per se*, but as a tool to implement other fundamental objectives of ILO, considered as “*inseparable, interrelated and mutually supportive*” with the Core Labour Rights. Social dialogue emerges as a crucial mean for the creation of employment in a sustainable economic and institutional environment and for the development of social protection (social security and labour protection).

The importance of social dialogue is also recognized in the *Global Jobs Pact* adopted by the International Labour Conference in 2009.³² This declaration commits member states and ILO to act towards promoting recovery and development in the first stage of the global financial crisis by “*engaging in social dialogue, such as tripartism and collective bargaining between employers and workers as constructive process to maximize the impact of crisis responses to the needs of real economy*”. In the same declaration, the need of a social dialogue is stressed in regard to the “heightened social tension” as an invaluable mechanism to overcome the crisis.

Furthermore, on the one hand some of the rights recognized and protected by ILO’s conventions are essential for an effective social dialogue³³, on the other hand several of ILO’s conventions protect rights and affirm principles that expressively require an effective establishment of social dialogue institutions³⁴. Thus, social dialogue appears again not only as an important result *per se*, but as an important tool for the achievement of other results and for the fulfilling of some additional sets of rights. As ILO recognized, there cannot be social dialogue if parties are not independent, democratic and free, and if trade unions’ right to collectively organize workers is not protected.

ILO’s commitment to strengthen and implement social dialogue practices in the member states goes far beyond a simple production and promotion of conventions and declarations of principles. Thus, ILO monitors the implementation of conventions, develops research and studies on the topic, provides technical cooperation to social partners and governments and also plays a relevant advisory role for policy-makers and provides support for all three parties of the social dialogue with capacity building projects. Moreover, ILO developed statistical indicators to

³² ILO, “Recovering from the crisis: A Global Jobs Pact”, *International Labour Conference*, 98th Session, Geneva, 2009.

³³ As put by ILO (2013b: 6): “*Some of the international labour standards are particularly important to social dialogue as they lay down its core elements and conditions, notably the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), as well as the Workers’ Representatives Convention, 1971 (No. 135)*”.

³⁴ Some of these are the *Employment Policy Convention*, 1964 (No. 122), the *Minimum Wage Fixing Convention*, 1970 (No. 131), the *Human Resources Development Convention*, 1975 (No. 142), and the *Occupational Safety and Health Convention*, 1981 (No. 155).

measure the quality of social dialogue in the member states³⁵ and intervened in order to sustain the establishment or the strengthening of social dialogue institutions, with a wide number of project. Both at the national and regional level, ILO supported social partners and governments, promoting labour laws' changes, building parties' capacity and cooperating with other regional or international organization.³⁶

Social Dialogue and EU

A specific focus on the European Union's format of social dialogue, at the national and supranational level, may be important in this research for a twofold purpose. Primarily, one of the aims of this research is to evaluate the extent to which EU's institutional model can influence industrial relations in general, and social dialogue in particular, in Georgia. For this purpose, it would be crucial to shortly analyse the developments of social partnership in the EU's practice. Therefore, the analysis traces how the practices of social partnership have been changing in these last years and how they can lead to different outcomes and pursue different aims. This flexibility in the social dialogue's guise has to be taken in consideration when analysing the peculiar application of partnership in Georgia. Secondly, social dialogue plays an essential and connotative role in the making of the so-called *European Social Model*³⁷ both at the national and supranational level. As it will be shown in the case study, the reference to the European choice and the effect of the approximation to the EU is a relevant factor of change in the Georgian path of development. Therefore, it may be useful to shortly scrutinize the European model and the role that social dialogue plays in it.

Consequently, first it is important to clarify what the ESM stands for in connection with social dialogue, while acknowledging that a common, undisputed definition of this model does not exist, that there are relevant differences among member states and that development of social dialogue at the Union-level is still uncertain, multifaceted and puzzling. Finally, the paper tries

³⁵ See: Kuruvilla, S., "Social dialogue for decent work", in: Ghai, D. (ed.), *Decent work: Objectives and strategies*, Geneva: International Institute for Labour Studies, 2006, pp. 175-215.

³⁶ Voss, E., Gospel, H., Dornelas, A., Vitols, K., "What works and why? Results of a synthesis review of social dialogue interventions 2002-2012", International Labour Office, Evaluation Unit, Geneva: ILO, 2013.

³⁷ As European Commission (European Commission, "The European social dialogue: A force for innovation and change", 2002) puts it: "*Social dialogue is acknowledged to be an essential component of the European model of society and development, with high-quality social protection, investment in education and qualifications and reforms designed to improve dynamism in the economy. [...]*

The social dialogue is rooted in the history of the European continent, and this distinguishes the Union from most other regions of the world. [...]

As a driving force for modernising of the European social model, the social dialogue holds a crucial, unique position in the democratic governance of Europe".

to assess how the concept, practices and institutions of social dialogue have developed since their first appearance in the European industrial relations system.

Quoting Schmidt,³⁸ “*empirically [...] the existence of a “European Social Model” is hard to prove*”. Not only EU member states’ models proved to be significantly different from each other, but even the attempts to classify the different social and economic models, have spurred the creation of diverse taxonomies.

Esping-Andersen³⁹ clustered industrial economies in three basic groups, analysing the models of welfare, the social stratification created, the structure and access to political power of labour movements and their relation with left-wing political parties and how all of these factors interact with each other. Social partnership in Esping-Andersen’s research is discussed through the frame of labour movements’ access to the policy formation process. The mix of institutional arrangements and complex historical factors and legacies lead to the Esping-Andersen taxonomy of industrialized economies where three clear-cut differentiated groups exist: the *liberal market-oriented*, the *corporatist continental* and the *social-democratic* models.

The earlier and valuable literature of corporatism, has contributed widely to the understanding of interest groups incorporation processes in the political sphere. Schmitter⁴⁰ had the merit of freeing the concept of corporatism from the previous ideologically biased academic discourse. Schmitter uses the term “*societal corporatism*”,⁴¹ describing a “*system of interest representation*” that is to be differentiated from “*pluralism*”.⁴² Both represent ways to organize and give voice to conflicting societal interests that tend to expand their action toward public policy and public decision-making arenas. Differences among the principles though are to be found in the ways they represent the same societal interests. Indeed, in corporatism, representatives are hierarchically organized and enjoy certain degree of representational monopoly within their respective categories, which is recognized and granted by the state. In pluralism, on the other

³⁸ Schmidt, G., “Inclusive Growth: What Future for the European Social Model?”, IZA Policy Paper No. 82, Bonn: Institute for Study of Labor (IZA), 2014, p. 2.

³⁹ Esping-Andersen, G., *The Three Worlds of Welfare Capitalism*, Princeton: University Press, 1990.

⁴⁰ Schmitter, P. C., “Still the Century of Corporatism?”, *The Review of Politics*, Vol. 36, No. 01 (Jan, 1974), pp. 85-131. For a recent review of corporatism’s literature see: Siaroff, A. (1999). “Corporatism in 24 Industrial Democracies: Meaning and Measurement”, *European Journal of Political Research*, Vol. 36, No. 2, (1999) pp. 175-205.

⁴¹ The author uses the concept of *societal corporatism* in opposition to *state corporatism* also, where “*Societal corporatism appears to be the concomitant, if not ineluctable, component of the postliberal, advanced capitalist, democratic welfare state; state corporatism seems to be a defining element of, if not structural necessity for, the antiliberal delayed capitalist, authoritarian, neomercantilist state.*” (Schmitter, P. C., “Still the Century of Corporatism, p. 105).

⁴² A similar dichotomy corporatism/pluralism can be found in: Crouch, C. J., “Conditions for Trade-Union Wage Restraint”, in: L. N. Lindberg and C. S. Maier (eds.), *The Politics of Inflation and Economic Stagnation: Theoretical Approaches and International Case Studies*, Washington, DC: Brookings Institution, 1985, pp. 105-139.

hand, the representatives of interests are multiple, competitive, non-hierarchically ordered and not specially recognized and licensed as monopolist in the representation of their own interest group.

Despite the conceptual distinction, the dichotomy *corporatism-pluralism* is far from being practically viable in a clear-cut way. There are different degrees of interpretation and of the practical implementation of corporatism as well as of pluralism. Nevertheless, this distinction outlines the existence of societies where one or the other model prevails: in societies that use the corporatist model interests are represented in collective organizations and the government recognizes the monopolist representational mandate of these organizations, sharing with them a certain degree of policy-making power; while societies that use the pluralist model have more fragmented systems of interests' representation and no obligations or willingness of governments to share decision-making powers with socio-economic organizations. If in the first group a certain degree of social dialogue will be naturally embedded and well-functioning, in the second, social partnership is likely limited and hardly accepted.

Another example of insightful working taxonomy can be found in Crouch,⁴³ who analyses in a dynamic and historical perspective the structure and power of the labour movement, the organization of capital's interests, the economical outcomes (inflation, unemployment, industrial conflicts) and institutional development of industrial relations in several industrialized countries, since 1870. In the early 1990s, he distinguishes the existence of four categories of countries in Europe: extensively neo-corporatist countries, declining neo-corporatist ones, countries with incipient corporatist practices in some regions and contestation in others, and countries with highly fragmented collective bargaining and social dialogue structures and high rate of contestation in industrial relations.

A more recent literature focuses once again on how interests in the society are represented and organized, but shifting the centre of the analysis on the firm's patterns of action. This is the *Varieties of Capitalism* literature, which tries to evaluate how the institutional environment can affect firm's actions and performances.⁴⁴ These analyses, in general, classify systems of interest organization in two groups: *Liberal Market Economies* and *Coordinated Market Economies*. However, despite a different perspective adopted by the Varieties of Capitalism studies, as pointed out by Alonso,⁴⁵ "*at empirical level there is a strong overlap between characteristics*

⁴³ Crouch, C. J., *Industrial Relations and European State Traditions*, Oxford: University Press, 1993.

⁴⁴ For example, Hall and Soskice (2001) focus on the influence of institutional environment on the firm's performance in foreign trade. See also: Hamann K., Kelly J., "Varieties of capitalism and industrial relations", in: Blyton P. et al. (eds.), *The SAGE handbook of industrial relations*, London: Sage, 2008, pp. 129–148.

⁴⁵ Alonso, A., *What's left to trade: the changing logic of corporatist policymaking in Europe*, EUI Working Paper MWP 2011/14, Florence: European University Institute, 2011, p. 3.

emphasized by the earlier literature on corporatist countries and those of Coordinated Market Economies”.

Even a short review of only part of the existing literature, which analyses the relation between economic actors, mechanisms of organization of societal interests and policy-making institutions and practices, may be sufficient to provide a picture of the differences existing among EU member states.

Beside the differences, scholars notice that it is nevertheless possible to talk about a general ESM. This concept may be clearer if a broader lens is adopted, comparing European model with other industrialized economies outside Europe. Reid,⁴⁶ for example, by comparing European economies and the United States, pointed out how European systems can achieve better trade-off between social justice and economic efficiency. Alternatively, as Buchanan⁴⁷ claims, Europe can be seen more critically as burdened with unsustainable public sectors and economically distorting welfare procurements. For Schmidt,⁴⁸ it is still possible to talk about a broad *Social Europe*, even if it is far from being uniform and completely integrated. The main characteristics of this Social Europe are: more economic redistribution and social inclusion, stronger role of the public intervention and coordination in the market economy as well as social partnership and right for labour and capital to have voice⁴⁹ in political decisions.⁵⁰

Having explored some of the national differences among EU member states – which nevertheless all entail a certain degree of social dialogue as defined by ILO – the paper briefly turns to outlining the practices of social partnership at the EU supranational level.

Social dialogue at EU level

Since the creation of the *European Coal and Steel Community* in 1951, the founding members of the EU established an institution for social dialogue at supranational level in the format of a

⁴⁶ Reid, T. R., *The United States of Europe: The New Superpower and the End of the American Supremacy*, New York: Penguin Press, 2004.

⁴⁷ Cited in Schmidt (2014): Buchanan, J. M., “The fiscal crisis in welfare democracies: with some implication for public investment”, in: Shibata H. and Ihori T. (eds.), *The Welfare State, Public Investment, and Growth*, Selected Papers from the 53rd Congress of the international Institute of Public Finance, Tokio et al.: Springer, 1998, pp. 3-16.

⁴⁸ Schmidt, G., “Inclusive Growth: What Future for the European Social Model?”.

⁴⁹ Schmidt (2014) sustains that redistribution and social partners’ voice are both aspect of his idea of Social Europe. About this, it is noteworthy to point out how Vandaele (in: “Do unions and worker representation bodies make for more or less inequalities?”, in: *Benchmarking Working Europe 2012*, Brussels: ETUI, 2012, pp. 100–111) found empirical evidence that workers’ participation in corporate decisions (here we can consider this participation as a measure of firm-level social partnership) reduces income inequalities lowering the incomes of higher earners. Although a casual relation cannot be proved, there is an interesting correlation.

⁵⁰ Schmidt, G., “Inclusive Growth: What Future for the European Social Model?”, pp. 40-41.

See also: Ferrera, M., *Liberal Neo-Welfarism: new perspectives for the European Social Model*, OSE Opinion Paper No. 14, Brussels: European Social Observatory (OSE), 2013.

Consultative Committee where workers and producers of mining and steel sectors could be represented. The committee had only advisory functions, attempting to provide a forum for the cooperative management of social consequences, deriving from the integration of economic sectors traditionally protected.

In 1958, after the treaties institutionalized the European Communities, the European Economic and Social Committee was established with the aim to better connect European social partners and European Commission. Despite this experience was fruitful for the development of a first European supranational dimension of trade unions and employers' organizations, the work of the Committee could influence European Council's decision very rarely.⁵¹ In the following years, social partners with the support of European Commission, created several inter-professional advisory committees and organized various *Tripartite Conferences*.

In 1985, under Delors presidency, the European Commission convened the European social partners to the meeting of "Val Duchesse"⁵² with the aim and auspice to start a process of European-level consultation, concertation and bargaining. Despite the absence of legal instruments – indeed at this stage, there was still no mechanism to influence Commission or Council decisions and further affect the European policymaking process – social partners delivered several *joint opinions* on a wide range of topics. In 1989, a joint declaration of all Community member states with the exception of United Kingdom, adopted the *Community Charter of Fundamental Social rights of workers*. Among other human and social rights, the Charter establishes the Community's *moral obligation* to guarantee labour rights, above all, the right of collective bargaining and the workers' rights of information and consultation. Later on, the Charter has been included in the *Treaty of Amsterdam* and in the *Treaty of Lisbon*.

In the drafting of the *Maastricht Treaty*, social partners' contribution was incorporated in the annexed Protocol on Social Policy and later, on the Treaty itself. Maastricht rules established that the Commission should consult social partners in case of drafting of social policy initiatives. Moreover, on their own initiatives, social partners can address advices or recommendations to the Commission. Article 4 of Social Protocol, in addition, provided two avenues for European social partners, to implement their agreement at peak level. In the first case, the peak level agreement can be implemented in accordance with the national practices of national affiliates of community-level social partners. This means that the agreed rules oblige the national organizations, affiliates of the European-level organization, to follow the agreement. In the second case, the agreement can become part of Community social legislation through proposal of

⁵¹ Degryse, C., *European Social Dialogue: State of play and prospects – Final Report*, Brussels: European Social Observatory (OSE), 2011, p. 27.

⁵² The place in the suburbs of Brussels, where the first meeting of new European social partners and president of European Commission took place.

the Commission and decision of the Council. This makes the results of European social dialogue, binding *erga omnes*, and not only mandatory for the organizations represented by the European social partners.⁵³

In the following years, the European Social Dialogue delivered 3 main framework agreement, later converted in Community directives about parental leave (1995), part-time work (1997) and fixed-term work (1999). But, in the beginning of 2000s, the orientation at community level shifted again. The role and importance of the European social partners are still recognized in Council's summits and Commission's communication and social partners are invited to express their opinion during the formulation of the Lisbon Strategy's targets. In 2003, the Tripartite Social Summit is established, where social partners, European Commission and Council annually meet. Nevertheless, at the European Council of Laeken, in December 2001, Community's institutions called for a more autonomous process of social dialogue. Social partners were invited to use their own affiliates to implement the agreements achieved at the community level, while the translation in directive of their joint decision was discouraged.

Nowadays, after Lisbon Treaty came into force, European social dialogue is regulated by articles 154-155 of TFEU. According to Article 154 of TFEU, the Commission, before submitting proposals in the domains of social policy, has to consult both management and labour. The Article 155 TFEU entitles the social partners to continue the consultation via bipartite social dialogue. In this case, the Commission will stop its legislative initiative. The bipartite dialogue may even lead to agreements. Otherwise, if the social partners do not reach any agreement, the Commission can decide to proceed via the normal legislative procedure. If the social partners, on the contrary, reach an agreement, Article 155 provides, as established in Maastricht Treaty, two ways to ensure its implementation:

- the *voluntary route* of the so called *autonomous agreements*, which rely on national procedures and practices specific to management and labour and the member states; or
- the route via *implementation by Council decision*.

These so called *framework agreements*, are in practice incorporated by the Council Directive, including all legal consequences specific to the instrument of a directive. The procedures of Article 154-155 TFEU can be used to arrive at both inter-sectoral and sectoral agreements. For

⁵³ Platzer, H-W., "Industrial relations and European integration: pattern, dynamics and limits of transnationalisation", in: Platzer, H-W. (ed.), *European Union – European industrial relations? Global challenges, national developments and transnational dynamics*, London: Routledge, 1998, pp. 81-117.

both types of agreements, implementation by Council decision or implementation via the voluntary route is possible.⁵⁴

Two more constituent parts of social dialogue at the European level are the European sectoral social dialogue (ESSD) and the European Work Councils (EWCs). The ESSD committees are fora for consultations on European policies as well as a tool for autonomous social dialogue among the European social partners who may develop joint actions and conduct negotiations on issues of common interest. Moreover they can be consulted by the European Commission on issues of social policy regarding their sector of competence.⁵⁵ Since 1998, ESSD Committees have produced numerous texts, some of which have been incorporated in binding directives of the European Commission.

The European Work Councils are enterprise-level bodies providing for the information and consultation of employees in *Community-scale undertakings* and *Community-scale groups of undertakings* as required by the 1994 European Works Council Directive integrated and updated by the recast Directive of 2009.⁵⁶

Nowadays, EWCs have become the main bodies where workers can engage discussions with central managements of multinational corporations which work in different EU countries. The initial scope of EWCs was to assure the existence of stable fora for informing and consulting workers about basic issues as occupational health and safety or management of redundancy during restructuring of enterprises. Nonetheless, EWCs are progressively widening their competences and even promoting certain forms of transnational bargaining at company level.⁵⁷

⁵⁴ For a brief overview of the history of European social dialogue's legal frame, see: Clauwert, S., "European framework agreement: 'nomina nuda tenemus' or what's in a name? – Experiences of the European social dialogue", in: Schömann et al., *Transnational collective bargaining at company level – A new component of European industrial relations?*, Brussels: ETUI, 2012, pp. 117-155.

For comprehensive and official definitions of the different concepts used so far and later, about European industrial relations and European social dialogue, see the *Eurofound's European industrial relations dictionary*, available online at: <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/index.htm>. [Accessed: 31/10/14].

⁵⁵ Criteria and prerequisites for ESSD committees are specified in the Commission Decision of May 1998 (European Commission 1998).

⁵⁶ European Council, "COUNCIL DIRECTIVE 94/45/EC, of 22 September 1994, on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees", Brussels, 1994.

European Council, "DIRECTIVE 2009/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, of 6 May 2009, on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast)", Brussels, 2009.

⁵⁷ For a critical evaluation of the recent developments of EWCs' activities and role, see: Jagodzinski, R., "European Work Councils and transnational company agreements – balancing on the thin line between effective consultation and overstepping competences", in: Schömann et al., *Transnational collective bargaining at company level – A new component of European industrial relations?*, Brussels: ETUI, 2012a, pp.157-196.

Some consideration on the development of social dialogue in EU

The *Single European Act* of 1986, acknowledging the fast process of member states' markets integration, for the first time mentioned the need of a subsequent and similarly strong social integration. With a growing integration of businesses and trade, and the subsequent fragmentation of productions, the basis of industrial relations dramatically changed. The maximum level of integration was to be reached in the European markets in the following years, and a consequent growing sensibility to the issue of social and political integration aroused among European elites.

Since then, capital and labour underwent an increasing mismatch of powers as the result of the opportunities that capital has to move freely in the economy and looking for the best producing conditions without real long-term ties with workforce or local institutions. The asymmetry between multinational companies and local workforces is still such that the management has a considerable advantage in the setting of working conditions, because of its capability to move the production virtually everywhere. Therefore, a strong competition among workers globally can be observed, which risks leading to *race to the bottom* processes in threatening protection and rights of workers as well as lowering wages and working conditions. As Boni notices, "*Generally speaking, the more globalisation takes hold, the more this is happening, with a constant stream of fresh examples of companies going global and workers remaining local*".⁵⁸

For this reason, scholars and observers looked with optimism at the Val Duchesse process, since it acknowledged and accelerated the first steps of the process of European social dialogue with the aim of reducing this mismatch between globalized capital and still local trade unions. Consequently, observers as Ales et al.⁵⁹ considered the European social dialogue as a real first step for a truly European-scale bargaining system between supranational social partners. On the contrary, other observers argued that European social dialogue could never be really considered an authentic process of bargaining, because working time, right to strike, lockouts and other *hard issues* were explicitly excluded from the scope of European social dialogue by the Maastricht Social Protocol.⁶⁰ It is beyond the scope of this research to study whether the European social dialogue could be seen as an elementary form of collective bargaining or not.

⁵⁸ Boni, G., "Introduction", in: Schömann et al., *Transnational collective bargaining at company level – A new component of European industrial relations?*, Brussels: ETUI, 2012, pp. 7-18, p.12.

⁵⁹ Ales, E., Engblom, S., Jaspers, T., Laulom, S., Sciarra, S., Sobczak, A. and Valdes Dal-Re, F., *Transnational collective bargaining: past, present and future. Final Report*, European Commission - Directorate General Employment, Social Affairs and Equal Opportunities - Unit D2, Brussels, 2006.

⁶⁰ For a brief review see: Jagodzinski, R., "Transnational collective bargaining: a literature review", in: Schömann et al., *Transnational collective bargaining at company level – A new component of European industrial relations?*, Brussels: ETUI, 2012b, pp. 19-76, 24-27.

Nevertheless, it is noteworthy to briefly outline part of the debate about the changing role of social dialogue at the European level.

For some observers⁶¹ in fact, EU institutions shifted their approach regarding social dialogue, after 1990s. Therefore, in the very same moment when European social dialogue was leading to a constructive participation of social partners in the social legislation making of European Communities through the framework agreements converted in directives, the same European institutions decided to increase the autonomy of the partners, promoting the voluntary route of autonomous agreements. The absence of a Commissions' involvement in converting social dialogue agreements into *erga omnes* legislation, and the willingness expressed in Laeken Council, in December 2001, for more social partners' autonomy, had a clear impact on the social dialogue outcomes.

The shift from framework agreements to autonomous agreements, as assessed by 2011 ETUC-OSE monitoring report,⁶² led to wide dissatisfactions among workers because contents of the texts resulting from social dialogue after Laeken have been considered progressively less able to affect working conditions at shop-floor level. In addition, the report points out that the general employers' willingness to participate in collective agreements started decreasing. This may be arguably the results of the European Commission's disengagement⁶³ in activities of European level social partners. Indeed, as Alonso explains:

“social partners have an incentive to find compromises on a specific issue if they fear that if they will fail to do so, the government will act unilaterally and decide something on its own without cooperating with them, in this case, the costs of defection are higher than the costs of cooperation. Taking part in decision-making is better than being excluded, even if this involves making concessions with respect to one's primary interests. It is better to keep a grip on regulations than to leave them to bureaucrats alone”.⁶⁴

⁶¹ Jagodzinski, R., “Transnational collective bargaining: a literature review”.

⁶² Degryse, C., *European Social Dialogue: State of play and prospects – Final Report*, Brussels: European Social Observatory (OSE), 2011. See also: Clauwert, S., “European framework agreement: ‘nomina nuda tenemus’ or what’s in a name? – Experiences of the European social dialogue”, in: Schömann et al., *Transnational collective bargaining at company level – A new component of European industrial relations?*, Brussels: ETUI, 2012, pp. 117-155.

⁶³ As stressed in de Boer et al. (2005: pg.65), “without a realistic threat of legislation enabling the Commission to pressure the social partners into negotiations, and with the wide differences on a variety of aspect of employment regulation both between and within countries, it seems unlikely that many framework agreements will be concluded in the future, let alone implemented by Council decision.”

⁶⁴ Alonso, A., *What's left to trade: the changing logic of corporatist policymaking in Europe*, EUI Working Paper MWP 2011/14, Florence: European University Institute, 2011, p. 17.

Following Alonso's reasoning, with the process started in Laeken, on the EU level, the European Commission has showed less and less interest in a direct involvement of social partners in policy-making,⁶⁵ reducing therefore the employers' willingness to bargain with unions.

Another noteworthy and interesting development is the proliferation of transnational company level agreements, facilitated by the institutionalization of EWCs, as well as the growing number of texts issued by European sectoral social dialogue committees.⁶⁶ Nonetheless, these cannot be considered a stable system of consolidated European level industrial relations yet, but a multifaceted and uneven process, still in the making.

The changing pattern of social dialogue in Europe

Although the practice of social dialogue is deeply rooted in the tradition of European industrial relations, it is not a monolithic and uniform series of procedures. On the contrary, it is a practice delivering changing outcomes based on changing variables and balances of powers. Therefore, this section – given the puzzling mosaic of different approaches and practices of social partnership in Europe – tries to outline common European trends toward new uses and practices of tri and bipartite dialogue.

In the aftermath of the 2008 financial breakdown, the social dialogue has been one of the decisive factors in the crisis' management, playing a central role to provide *negotiated responses* to the external shocks of the crisis.⁶⁷ But as Rychly⁶⁸ stresses, generally social pacts and dialogue were crucial in industrialized economies since the end of 1970s and during all 80s, when a changing monetary regime was being established worldwide and industrialized countries were revisiting their systems of interests' organization. Nonetheless, despite the central role of tripartism in hard times, a detailed analysis shows that the partnership led to debated results, with observers pointing out the uneven range of outcomes reached.

⁶⁵ As Vandaele (in: "Social dialogue and worker representation in EU2020: underappreciated and underplayed", in: *Benchmarking Working Europe 2011*, Brussels: ETUI, 2011, pp. 82-100) points out, social dialogue has become less and less central in the shaping of European Commission's development strategies. This marginalization of social partners in setting the objectives and goals of EU is particularly evident in setting the priorities of "Europe 2020" strategy. Moreover, also the implementing role of social partners in supporting the realization of flagship goals of EU has been downgraded comparing "Lisbon Strategy" with "EU2020".

In their research, Gold et al. (2007) are even more critic in analysing the role of social dialogue in the Lisbon Strategy. They argue how the target setting in Lisbon and Stockholm European summits, regarding the European Employment Strategy represents a shift from *partnership* toward *managerialism* in the policy-making process of the Commission. Far from contributing in setting the targets of the strategy, social partners have been downgraded in a minor implementation role at national level. European social dialogue in this case, doesn't have any transformative, negotiating or advisory power in the making of decisions, but it becomes a mere executive tool to realize the targets.

⁶⁶ See Schömann et al. (2012) for a focus on transnational company agreements' developments and Sobczak and Evelyne (2009) for an analysis of the relations between these two levels of social dialogue.

⁶⁷ Rychly, L., "Social dialogue in times of crisis: Finding better solutions" Geneva: ILO, 2009.

⁶⁸ *Ibid.*

If social dialogue has certainly showed intensification during critical moments of economic hardship and transformation, results achieved can be debated, especially in regard to the 2008 financial crisis' negotiated responses. In their study, Glassner and Keune⁶⁹ for instance, outline how all the main measures obtained with social dialogue at both national, sectoral and company level led in different EU member states to temporary working time reductions, temporary deviations from collectively negotiated pay norms and solidarity contracts at company level. The inclination of unions to make concessions in order to save jobs, and the intervention of governments, regardless of their political orientations, in providing salary losses integrations for dismissed workers, showed that negotiated responses could arguably become not sustainable in the long term. Glassner and Keune on the other hand, also stress how *“crisis accelerates this process of organized decentralization and gives more prominence to company level. Although this is now seen as a temporary and necessary practice, it may well prove to be irreversible in the future”*.⁷⁰ Moreover, the authors point out the danger of an increasingly “disorganized” decentralization, where collective bargaining and wage setting mechanisms increasingly move towards company level while national and sectoral bargaining lose prominence.

Consistently with this view, Hyman notices that a *“key initiative in many countries was agreement on relaxation of the rules of governing short-time working, often linked to government funding for short-time work schemes as an alternative to redundancy, so that loss of wages would be minimized or avoided together”*.⁷¹ Nevertheless, tripartite agreements in some of the industrialized economies have just failed to find consensus, triggering conflicts between social partners and creating divisions inside unions, even in *“countries with a tradition of national pacts”*.⁷² Hyman notes that peak-level agreements – aimed to achieve a certain degree of competitiveness in an increasingly conflicting environment – resulted frequently in labour costs containment and increasing workforce internal flexibility measures and rarely in increasing capital's productivity arrangements. Hyman noted also, that the results of post-crisis social dialogue outcomes have led to widespread salary reductions with downward renegotiation of existing pay agreements and *across-the-board opening clauses* to escape sectoral and national collective agreement and modifying rules *in-peius*, at company level.

Hyman again, points out that decentralization of collective bargaining reduce coordination and increase competition within national economies.⁷³ Moreover, he argues, decentralization can also

⁶⁹ Glassner, V. and Keune, M., “Negotiating the crisis? Collective bargaining in Europe during the economic downturn”, Industrial and Employment Relations Department, International Labour Office, Geneva: ILO, 2010.

⁷⁰ *Ibid.*, p. 20.

⁷¹ Hyman, R., “Social dialogue and industrial relations during the economic crisis: Innovative practices or business as usual?”, Industrial and Employment Relations Department - DIALOGUE, International Labour Office, Geneva: ILO, 2010, p. 7.

⁷² *Ibid.*

⁷³ *Ibid.*, p. 9.

lead to the conceptualization of “social dialogue as an *alibi*” to justify governments’ inaction in areas where only public authority can have an effective balancing role between social partners with very different contractual powers. The overall picture for Hyman explains how creative and *win-win* measures to face the challenges that crisis poses are very rare, while labour stands in a subordinate position in time of crisis, in bipartite dialogue seeking to save jobs and salaries in a period of restructuring. Under these particular conditions social dialogue risks to become a *talking exercise* where parties *negotiate for the sake of negotiating* while workers’ voice is dramatically downgraded and the whole process is a “*façade designed to encourage employees to accept their subordination – and in current circumstances, their increasing insecurity*”.⁷⁴ Hence, Hyman warns from the risk concerning a sort of rising “*fetishism of process over outcome*”⁷⁵ in which, social dialogue doesn’t represent anymore a method to build consensus, social cohesion and trust but a mere instrument to solidify the subordination of one partner under another.

If the dramatic 2008 financial crisis created particularly dramatic conditions for the development of social partnership experiences and subsequent outcomes, it may be interesting to scrutinize how social dialogue is evolving over the years in the practices of different European countries in a broader lapse of time. ETUI-OSE study⁷⁶ provides a broad and comprehensive analysis of social pacts⁷⁷ in some of the EU member states and gives a good frame within which to consider changes in practices of concertation.

Following the categorisation of Natali and Pochet,⁷⁸ three *waves* of social pacts in Europe are recognized.

The first wave started after Second World War, developed especially in neo-corporatist states and ceased in the beginning of 1980s. The second wave is related with the need of structural adjustments coping with external shocks, as liberalisation of international markets, changing of monetary system and integration in European single market and in monetary union. The third wave of pacts is currently in the making and encompasses all the tripartite attempts to cope with the financial crises and its subsequent political decisions and structural changes. In the analysis, authors investigate three main variables that are considered crucial for the transformation of social concertation and which are: the *problem load*, resulting from socio-economic challenges to tackle, the *role of actors*, with their interests and strengths, and the *institutional dynamics*.

⁷⁴ *Ibid.*, p. 13.

⁷⁵ *Ibid.*, p. 12.

⁷⁶ Pochet, P., Keune, M. and Natali, D, *After the Euro and enlargement: social pacts in the EU*, Brussels: European Trade Union Institute (ETUI) and Observatoire social Européen (OSE), 2010.

⁷⁷ We consider social pacts those tripartite agreements, resulting from process of social dialogue establishing “*cooperative relationships between interests groups so as to enable them to achieve public objectives*”. (Traxler, 2010:45). As Traxler further underlines, “*Such relationships are commonly conceptualized as corporatism*” (*Ibid.*).

⁷⁸ Natali, D. and Pochet, P, “The last wave of social pacts in Europe: problems, actors and institutions”, in: Pochet, P. et al (eds.), *After the Euro and enlargement: social pacts in the EU*, Brussels: European Trade Union Institute (ETUI) and Observatoire Social Européen (OSE), 2010 , pp. 13-43.

Mainly, a recognizable trend identifies the shift from Keynesian system to neoliberal and monetarist one as a general cause of subsequent structural changes in the organization of societal interests.

The main consequences of this transformation are the liberalisation of markets, the increasing global competition, and the following relevant pressures for more flexible, cheaper and more productive labour, and for capital friendly tax regimes. This trend accelerated with the European integration process. The emphasis on monetary austerity, on balance of public expenditures, reduction of member states' debts and deficits indeed reduced the leeway of member states' action in the economy, increasing even more the pressures on the labour as main factor of competitiveness. At the same time, trade unions underwent a structural weakening due to the changes of labour markets and the conditions of global competition. Workers with atypical and flexible contracts and asymmetry of power in the relations with capital, which could finally move freely in different countries, intensified the weakness of unions' contractual position. Moreover, with only few exceptions, all the bargaining institutional structures tended to become more decentralized at regional or enterprise-level, and less coordinated. In these trends, which are consistent along the three waves of concertation that the ETUI-OSE study identifies, the importance of social pacts never withdrew, but the concertation's practices and goals have significantly changed.

The first Keynesian wave of social pact can be described with the Pizzorno's notion of *political exchange*⁷⁹ and with the *theory of social compromise*.⁸⁰ The theory of tripartite negotiation as political exchange sees the tripartite agreements as an exchange among the three constituent parties of social dialogue. According to this view, trade unions guarantee social peace and acquiescence in exchange of a quota of the government's policymaking power. The political exchange brings balance because of the negative externalities that unions can trigger in case of a lack of agreement. These externalities are the negative effects that can result from unions' hostility toward certain policies or governments. The externalities specifically consist of the economic damages of strikes and demonstrations, the loss of popular approval for the government's policies, and also the obstacles in implementation of the disputed policies when there is a strong workers' opposition.

The political exchange works in Keynesian and Fordist systems. In these conditions in fact, strong unions, with high rate of membership can more effectively stand for wage increasing,

⁷⁹ Pizzorno A., "Political exchange and collective identity in industrial conflict", in: Crouch, C. and Pizzorno, A. (eds.), *The Resurgence of Class Conflict in Western Europe since 1968*, London: Macmillan, 1978, pp. 277-98.

⁸⁰ Cradden, C., "Understanding the past to change the present: the social compromise, the corporate theory of society and the future shape of industrial relations", in: Serrano, M., Xhafa, E. and Fichter, M. (eds.), *Trade Unions and the global crisis: Labour's visions, strategies and responses*, Geneva: International Labour Office, ILO, 2011, pp. 49-62.

triggering inflation, which will affect the general system and most of all, the popularity of the government. In these conditions, governments have to share with trade unions part of their public role in policy-making in order to moderate wage increasing and implement any policies where the approval of workers is necessary. Here employers play a minor role, given the focus of Keynesian economies on *demand-side-centered* development and full employment.

Furthermore, Traxler⁸¹ stresses the importance of social pacts' expressive functions, in addition to the instrumental ones. Instrumental functions entail the genuine effective and real contribution that each partner can provide through the internal control it exercises upon its members. On the other hand, expressive functions are for Traxler⁸², those which allow the government or the specific policy debated to reach the symbolic support of social partners, in exchange of their integration in the process of policymaking itself. In the first wave of social pact, both instrumental and expressive functions were at work and legitimized each other.

From a broader perspective, the concept of political exchange is a crucial part of the *theory of the social compromise*. As Cradden⁸³ puts it, the social compromise rests upon the recognition of demands of the market for a competitive production and freedom of (profitable) entrepreneurship, while social cohesion and equality are both legitimate and legitimately conflicting. Hence, the social compromise pursues the maximization of organizational effectiveness in order to satisfy both technical/economical preconditions for development, but also the democratic self-determination of workers, their participation in management decisions and their equality in employment relations through collective action and legislative protection. Social compromise accepts the need of technical subordination of workers in the production process, but it creates the structure to avoid this subordination to become also substantial.

Still following Cradden, the shift toward a *corporate theory of society* is the exact reversal of social compromise. This approach claims that "*corporate power is both procedurally and substantially legitimate*" and that "*the exercise of the managerial right to decide is consistent with valid political and ethical principles*".⁸⁴

Markets are perceived as autonomous social structures where individuals are equal once their freedom to enter or not in a contractual relation is guaranteed. Consequently, workers do not

⁸¹ Traxler, F., "Corporatism(s) and pacts: changing functions and structures under rising economic liberalism and declining liberal democracy", in: Pochet, P. et al. (eds.), *After the Euro and enlargement: social pacts in the EU*, Brussels: European Trade Union Institute (ETUI) and Observatoire social européen (OSE), 2010, pp. 45-82.

⁸² *Ibid.*

⁸³ Cradden, C., "Understanding the past to change the present: the social compromise, the corporate theory of society and the future shape of industrial relations", in: Serrano, M., Xhafa, E. and Fichter, M. (eds.), *Trade Unions and the global crisis: Labour's visions, strategies and responses*, Geneva: International Labour Office, ILO, 2011, pp. 49-62.

⁸⁴ *Ibid.*, p. 52.

need collective protection or protected channel where to express their collective voice. And whatever a corporate's decision, it answers to market requirements. Consequently, every demand of change of this logic, in order to pursue other social purposes, will significantly reduce the effective working conditions of the market and subsequently the general wealth of society. Because of this reason, every public intervention not following the market's rules – as for example a strong centralized tripartite bargaining system – will be considered unacceptable or irrational.⁸⁵

Once again, in terms of expressive functions, if the hegemonic cultural set of beliefs doesn't consider the consultation of organized interests necessary for achieving a better and mediated balance in the society, because the market is already the best way to allocate awards and pains, the *expressive function* of the social pacts has no reason to exist. Organized social partners are not recognized anymore as legitimate representatives of legitimate different and collective interests in the society. Then, the government, which is, ultimately the only public body with legitimate legislative power, will not need to incorporate the social partners in policy making in order to increase the legitimacy of the same policies. Thus, the power of social dialogue's expressive functions is dismissed.

Following this change of paradigm, the second wave of social pacts in Europe has developed in a completely different framework. The challenges posed on the parties had a different nature and tripartite agreements did not seek anymore full-employment policies and labour acquiescence for as less inflation as possible. New challenges for EU member states came from the globalization of markets where to compete, more fluid, fast-moving capitals and a demanding process of European integration requiring financial stability and no deficit spending policies together with the loss of monetary policy as national instrument for development. An ageing population, in some case a robust unemployment rate and a continuous demand from business to assure more flexible labour market were further internal pressures. The actors were, then, the increasingly weak trade unions, facing a more fluid and rootless management, strong employers generally seen in a new light as absolute protagonists in assuring development and changing political parties systems with new, erratic, electoral support and weak coalition facing post-ideological liquidity.

⁸⁵ As Traxler puts it: *“According to the corporate theory of society, the strategic and operational choices that managers make on behalf of their corporations are based exclusively on a technical assessment of the objective functional characteristics of the relevant market. [...].*

Hence, the corporate theory of society justifies employer authority and worker compliance on the basis that managerial plans and strategies are an expert response to the objective demands of the environment for action in the context of the overarching shared goal of economic success. The question of how to achieve a balance between economic and non-economic values is dismissed.” (Ibid., p. 53).

The new scenario of social pacts, organization of interests and industrial relations that appeared in Western Europe at the beginning of 1990s has been insightfully named *competitive corporatism*.⁸⁶ As Rhodes stresses:

*“employers in all systems are searching for greater company and plant-level flexibility in three areas: internal (or functional) flexibility in the workplace; external (or numerical) flexibility vis-à-vis the wider labour market; and greater pay flexibility at local levels. At the same time, the creation of the single market and the achievement of EMU (European Monetary Union, ed.) have placed new pressures on wage cost competition”.*⁸⁷

Still, these new conditions and challenges do not imply, for Rhodes, the retreat of the state from the domain of tripartite consultation. Indeed, member states found a renewed centrality in seeking social partners' involvement to achieve the structural adjustments needed to cope with a new challenging context. Tripartite social pacts have then led to *selective deregulation* and *coordinated decentralization* of collective bargaining and wage setting mechanism, together with a general *flexibilization* of labour market and restructuring of welfare. *Competitive* neo-corporatist states differ from *traditional* corporatist states because practices of social dialogue are less routinized and institutionalized and are built upon contingent situations, while social partners are weaker and less able to cause negative externalities. This implies a central role for the governments who become the most crucial actor in the process of transformation, and that should mediate between *distributional-lead* and *productivity-lead coalitions*, i.e. between instances of equity and efficiency.

In general, the effects of the social pacts' wave in 1990s, to which Rhodes refers, led to greater flexibility in working conditions, wage moderation and introduction of strong elements of collective bargaining decentralization. Arguably then, these pacts accommodated the requests of businesses instead of those of trade unions, contributing to the trade unions' progressive weakening. While social partners and most governments, learned how to build consensus and assure social cohesion in the making of important structural adjustments, the theory of political exchange became in reality, unusable. Indeed, already weakened unions became co-responsible of a process of wage moderation and flexibilization. Consequently, they lost representative capacity and support together with the power to create negative externalities. This labour

⁸⁶ See: - Rhodes, M. “Globalization, Labour markets - and Welfare States: A future of “Competitive Corporatism?”” in: Rhodes, M. and Many, Y. (eds.), *The future of European welfare*, London: Macmillan, 1998, pp. 178-203.

- Rhodes, M., “The Political Economy of Social Pacts: ‘Competitive Corporatism’ and European Welfare Reform”, in: Pierson, P. (ed.), *The New Politics of the Welfare State*, Oxford: University Press, 2001, pp.165-94.

- Keune, M., “Introduction: Wage moderation, decentralisation of collective bargaining and low pay”, in Keune, M. and Galgóczi (eds.): *Wages and wage bargaining in Europe: Developments since the mid-1990s*, Brussels: ETUI, 2008, pp. 7-27.

⁸⁷ Rhodes, M., “The Political Economy of Social Pacts: ‘Competitive Corporatism’ and European Welfare Reform”, in: Pierson, P. (ed.), *The New Politics of the Welfare State*, Oxford: University Press, 2001, pp.165-94, 173.

counter-power was fundamental in Pizzorno's theory that nowadays seems to be only marginally applicable.⁸⁸

The third wave of social pacts, started in the aftermath of the 2008 financial crisis, which rapidly became also a crisis of public finances and *real-economy* sectors. As Ghellab and Papadakis⁸⁹ argue, social dialogue and tripartism has showed to be an effective tool in the earliest reaction to the economic downturn.

After a first remarkable involvement of social partners in the management of the crisis, the following period has been characterized by growing conflicts and lack of cooperation in Europe's industrial relations. Meanwhile, the focus of public-policy makers shifted "*away from traditional macroeconomic indicators to indicators measuring financial risk*". This led to a "*de facto departure from a "political economy" crisis-response approach (where dialogue institutions have a role to play) towards a "financial-market-driven" approach*"⁹⁰

The consensus-seeking strategies of the first months of the crises have been replaced by austerity plans to reduce public deficits and consolidate public finances, adopted under the pressure of insolvency risk on the international financial market of governments' bonds. Once again, in many countries, "*austerity plans have been accompanied by measures aimed at restricting the scope of collective bargaining*"⁹¹ and tripartite consultation often paved the way for unilateral governmental decisions. This approach frequently caused splits among trade unions, weakening even more the representation of labour, while employers showed cautious support to public austerity measures.

The alarming picture provided by the European Trade Union Institute⁹² describes the main reforms implemented in EU's member states following European Commission's recommendations or the conditional *adjustment programmes* required by the International Monetary Fund, European Central Bank and the European Commission to those member states who benefitted from financial assistance facilities. The general result is a *one-way* development towards liberalization and weakening of organized labour. The structural adjustments required or praised by European and international supranational institutions led to a further decentralization of collective bargaining and wage setting mechanisms, introduction of sub-

⁸⁸ For an overview of political exchange theory transformation, with a focus on wage restraint policies see also: Hassel, A, "The Politics of Social Pacts", *British Journal of Industrial Relations*, Vol. 41, No. 4, (Dec. 2003), pp. 707-726.

⁸⁹ Ghellab, Y. and Papadakis, K., "The politics of economic adjustment in Europe: state unilateralism or social dialogue", in: *The global crisis: Causes, responses and challenges*, International Labour Office, Geneva: ILO, 2011, pp. 81-91.

⁹⁰ *Ibid.*, p. 83.

⁹¹ *Ibid.*, p. 85.

⁹² ETUI, *Benchmarking Working Europe 2014*, Brussels: ETUI, 2014, pp. 59-68.

minimal wages and protections for youth and long-term unemployed and the liberalization of legislation protecting workers from dismissals and redundancies.⁹³

Certainly, social pacts and different forms of social dialogue still persist in EU member states, even though with different results. The change that accompanied the shift from the political exchange paradigm to the competitive corporatism showed the social dialogue's capacity to adjust to the given frameworks. Even nowadays, social pacts remain an important tool to build consensus around unpopular political choices. As Baccaro and Simoni⁹⁴ showed empirically, until 2003, political concertation increases when governments have weak parliamentary support or are composed by unstable political coalitions. From another perspective, Traxler⁹⁵ argues that even when unions are weak and bargaining mechanisms are not centralized, governments retain interests in implementing concertation with social partners in order to mobilize instrumental or expressive powers preserved by social partners. In other words, social pacts and social dialogue persist because of their instrumental and expressive functions. The first is visible nowadays, mainly in traditional social-democratic states with centralized bargaining structure, while the second has led to social pacts where both government and social partners tried to share the burden of unpopular policies. Usually, these were systems with weakly legitimized governments and declining social partners⁹⁶. Another possible scenario can lead to turns toward governments' unilateralism, as it is happening in countries with no tradition of corporatist mediation or with weak social partners and strong governments.⁹⁷

This complex analysis is needed to recognize that the practice and interpretation of social dialogue relies on multiple variables and may bring a wide number of outcomes. The institutional structure, the role of actors and the challenges to be tackled are only macro-groups

⁹³ As ETUI (*Benchmarking Working Europe 2014*, p. 68) puts it: "Indeed, since 2008, the European Union's deregulatory agenda and crisis management practices have led all member states to engage in hard-hitting and wide-ranging reforms of their labour and social law, as well as of the regulations governing their public sectors. The national governments' zeal in this respect has hardly been curbed by the numerous international and national signals that such reforms constitute violations of fundamental social rights which, in accordance with their obligations under international, European and national law, the governments in question are required to observe and to promote. On 14 September 2011, in an address to the European Parliament, former ILO Director-General Juan Somavia stated, 'Respect for fundamental principles and rights at work is non-negotiable, even in times of crisis when questions of fairness abound.(...) We cannot use the crisis as an excuse to disregard internationally agreed labour standards'. This warning has clearly fallen on deaf ears. In particular, it has not been heeded by the current European Commission members and their leader Mr. Barroso."

⁹⁴ Baccaro, L. and Simoni, M., "Policy Concertation in Europe: Understanding Government Choice", *Comparative Political Studies*, 41: 10, 2008, pp. 1323-1348.

⁹⁵ Traxler, F., "Corporatism(s) and pacts: changing functions and structures under rising economic liberalism and declining liberal democracy", p. 73.

⁹⁶ Baccaro, L. and Simoni, M., "Policy Concertation in Europe: Understanding Government Choice", ...

⁹⁷ Traxler, F., "Corporatism(s) and pacts: changing functions and structures under rising economic liberalism and declining liberal democracy", p. 73.

of variables containing numerous series of other factors. A crucial role is also played by hegemonic public discourses and common perceptions in society. Only by acknowledging this complexity it will be possible to attempt an interpretation of social dialogue in the case study under consideration in this paper as well as to assess the potential role of the involved actors in shaping it, while also exploring their aims and purposes in doing so.

Social dialogue in transition: the case of Central and Eastern Europe

As analysed above, interpretations of social dialogue and corporatist organization of society are frequently overlapping in both academic discourses and practices. Nevertheless, differences can be still outlined between the two. Both need independent and autonomous parties with representational monopolies of the conflicting interest groups in society and both are based on the institutionalization of tripartism. But, while the former can lead even to a simple exchange of information among stakeholders, the second implies a more committed concertation and a real sharing of power in policy-making. Therefore, the mere existence of tripartite institutional frames for social partners and government's meetings does not necessary imply the existence of a corporatist organization of interests or a social partnership approach to public policymaking processes. Following this logic, the section will briefly analyse the experiences of tripartism in transition societies of Central and Eastern Europe (CEE).⁹⁸

The focus is on the role played by tripartite institutions for social dialogue, during transition from *real-socialism* to market economy and democracy. The aim of this brief review is to develop a critical understanding of the relation between tripartism, corporatism and *transition* that can be used in the following analysis of social dialogue in Georgia. Indeed, both Georgia and the reference group of CEE countries, went through a transition from communist planned economies and authoritarian regimes towards liberal democracy and market economy, through

⁹⁸ The paper refers to those countries of Central and Eastern Europe which became member of the European Union in the enlargement waves of 2004 and 2007. Therefore the paper does not include Cyprus and Malta (which were part of 2004 enlargement, but are not part of CEE) and South East European countries which are not member of EU yet, or became member later on, as happened with Croatia in 2013.

Following this section of the paper, the analysis mentions researches which analysed this paper's reference group entirely or with specific focus on some countries, but where generalizations are always possible and enabling to consider the group as a multifaceted but consistent cluster. Nevertheless, CEE countries obviously followed different paths of development in certain aspects. For a brief and insightful review of these differences in the structure of interests' organization the paper refers to Bohle and Greskovits. They recognize a consistent process of convergence but still cluster CEE countries in *neoliberal*, *embedded neoliberal* and *neocorporatist* societies. (In: Bohle, D. and Greskovits, B., "Neoliberalism, Embedded Neoliberalism and Neocorporatism: Path towards Transnational Capitalism in Central-Eastern Europe", *West European Politics*, Vol. 30, No. 3, 2007, pp. 443-466).

different steps of approximation to the European Union model of social market economy.⁹⁹ Thus, this section looks at the role of social partnership in these different experiences, in order to explore commonalities and differences and also use comparatively the existing literature.

As Iankova¹⁰⁰ noticed, tripartite institutions for social dialogue have been created in all the CEE countries in the early stage of transition, since the early 1990s. Iankova stresses the economic and social hardship following transition and the perceived complete unavoidability of the market-led reforms. A widespread popular support for the transformation and for the break with real socialism could not be enough once the economic hardship had started to dramatically reduce living conditions and social security nets. In this context, tripartite institutions have been crucial for Iankova's analysis. As she argues:

*“A critical purpose of tripartite arrangements was to avert potential conflict by distributing the costs and rewards of economic restructuring more equitably, thereby preventing clashes between a new economic elite committed to the full and rapid flowering of the market economy and an enfranchised mass population determined at the very least to moderate the harshness of the transition”.*¹⁰¹

The authors of reforms in CEE were indeed aware of the fact that *“the greatest danger for the reform would be the breaking of the existing social peace”*, nonetheless, fast *“economy liberalism”*, *“supremacy of market”* and *“minimal state role”* were the main priorities for left- and right-wing governments alike.¹⁰² International financial institutions strongly supported reforms and even the trade unions had essentially accepted the need to create a market economy and backed it as a way to distance themselves from the communist past. Nevertheless, the big bundle of restructuring policies needed a wide social involvement or a strong social acquiescence in order to minimize popular upheaval. Therefore, the first experiences of tripartism were originally conceived as a *“temporary safety valve to prevent an explosion of social conflict during the difficult times of economic restructuring and political democratization”*.¹⁰³

A further outcome of tripartite institutions was the consolidation of social partners. Unions and employers' associations learned to mediate positions and to recognize the existence of conflicting

⁹⁹ Here reference is made to the *acquis communautaire* that CEE countries already implemented in their path towards EU integration and membership, and that Georgia decided to undertake when initializing the Association Agreement with European Union in 2014.

¹⁰⁰ - Iankova, E., A., “The Transformative Corporatism of Eastern Europe”, *East European Politics & Societies*, Vol. 12, No. 2, March 1998, pp. 222-264.

- Iankova, E., A., “Capitalism by Design? Central and Easter Europe's Accession to the European Union”, National Council for Eurasian and East European Research, Cornell University, 2000.

- Iankova, E., A., *Eastern European Capitalism in the Making*, Cambridge: University Press, 2002.

¹⁰¹ Iankova, E., A., *Eastern European Capitalism in the Making*, Cambridge: University Press, 2002, p. 19.

¹⁰² *Ibid.*, p. 25.

¹⁰³ *Ibid.*, p. 12.

interests in the new liberal society.¹⁰⁴ Laws enabling the right to strike and ensuring the protection of unions' activities frequently followed tripartism institutionalization. Iankova recognizes that the general outcomes of tripartite meetings were the unions' *buy-out* process of neoliberal reforms, and the share of responsibility and burden of the social costs of reforms without any sensible co-decision power. Market-oriented reforms were indeed perceived as *unavoidable* and unchangeable and consequently not questionable by social partners. Nevertheless, she perceives social dialogue as an inclusive, multilevel tool focussing on the fair distribution of "*burden and rewards of transformation among the population at large*".¹⁰⁵

Iankova defines the organization of interests institutionalized with the tripartite practices in CEE countries as "*transformative corporatism*". In Iankova's viewpoint this Eastern way to corporatism, while managing to fade away the destructive legacies of communism, critically "*differs from classical neo-corporatist arrangements that peaked in Western Europe in 1970s*" in term of "*social purpose and policy functions, participating actors, and organizational-institutional structures*".¹⁰⁶ Nevertheless, these forms of transformative and transitional corporatism, for Iankova, tend to converge with the recent development of corporatism in Western Europe, which is progressively focussing more on delivering decentralization, flexibilization, segmentation and fragmentation of production; in one word with neoliberalism.¹⁰⁷ Furthermore, Iankova stresses the pivotal role of the European Union assistance during the process of integration, in implementing and strengthening social dialogue in CEE countries¹⁰⁸ as well as in providing legitimacy to the yet *undecided* direction of CEE's transition.

The concept of transformative corporatism, outlined by Iankova, has received insightful criticisms. Ost¹⁰⁹ for instance, argues that the tripartism experiences that occurred during the transition period in CEE countries are far from representing a whatsoever kind of corporatism. He further points out that "*what makes tripartite bodies inclusive neocorporatist institutions are*

¹⁰⁴ *Ibid.*, p.22.

¹⁰⁵ *Ibid.*, p. 174.

¹⁰⁶ *Ibid.*, p. 10.

¹⁰⁷ As Iankova (2000: 4-5) admits: "*because of the powerful presence of neo-liberalism on the global scene and the eagerness of post-communist democratic governments to embrace that doctrine to accelerate their economic restructuring and their return to the capitalist market, post-communist capitalism acquired important neo-liberal traits*"; where the dominant features of neo-liberal model of capitalism are defined as "*individualism, rational self-interest, the primacy of freedom over equality, a minimal state role in the economy and marginalization of labor by powerful business*".

¹⁰⁸ She especially underlines the importance of EU's support to tripartism in the region, especially after the signing of Association Agreements. Under the PHARE "Social Dialogue" Project, the EU supported the social partners since the early 1990s to reform, strengthen, and extend the structures and processes of social dialogue at various levels. (Iankova, 2000).

¹⁰⁹ Ost, D., "Illusory Corporatism in Easter Europe: Neoliberal Tripartism and Postcommunist Class Identities", *Warsaw Forum of Economic Sociology*, Vol. 1, No. 2 (2), autumn 2010, pp. 91-122. Paper originally appeared in *Politics and Society* 28:4, December 2000, pp. 503-530.

the degree to which they facilitate concertation or joint policy making".¹¹⁰ Therefore, in Ost's viewpoint the main condition and outcome of tripartism in corporatist system is a certain degree of "social and political arrangement whereby the labour is integrated into the polity".¹¹¹ Moreover, for Ost, neo-corporatist capitalism entails certain degree of social democratic outcomes, i.e., a certain degree of protection for labour, considered the natural insecurity and weakness of its position in the market.¹¹² Therefore, once again, the simple presence of tripartite bodies does not necessary imply a corporatist organization of interests in society. Consequently, the tripartite practices of CEE countries cannot be defined as corporatism because they have offered only:

"symbolic inclusion, and have systematically rebuked any labour aspiration towards co-responsibility in policy formation. On the contrary, governments have repeatedly sought to use tripartite bodies to rubber-stamp and legitimate neoliberal policies decided elsewhere. Tripartite bodies are emblematic of democratic corporatism when they lead to concertation. When they lead to disempowerment, they are symbols only of illusory corporatism".¹¹³

For Ost, a "procedural definition" of corporatism is inadequate and misleading. And the pervasiveness of tripartite institutions in CEE is not the signal of a new form of growing corporatism. On the contrary, this eastern way to tripartism

"has legitimized the marginalization of labour and the decline of wages and benefits. Far from enhancing labour's class power, such pseudo-corporatist arrangements offer symbolic inclusion in return for acceptance of a weakening of labour and a radical decline of the welfare state".¹¹⁴

Consequently, CEE countries' corporatism is *illusory* more than not transformative. This *illusory corporatism* is not a tool to create consensus around necessary reforms, assuring legitimacy of the decision and social cohesion, as Iankova's concept of transformative corporatism claims. Social partners do not really share a decision-making power with the government which does not attempt to mediate between the conflicting interests of labour and capital. Ost sees the tripartism

¹¹⁰ *Ibid.*, p. 96.

¹¹¹ *Ibid.*, p. 94.

¹¹² Ost (*Ibid.*, p. 97) reinforces his assumption stressing that, even authors that differentiate 'liberal' from 'social-democratic' varieties of corporatism, as Katzenstein in: (*Corporatism and Change: Austria, Switzerland and the Politics of Industry*, Ithaca: Cornell University Press, 1984), acknowledge the role of all the corporatist institutions in providing material benefit for labour as a whole.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, p. 97.

in CEE countries as mostly having a symbolic role. Considering the general weakness of social partners and the governments' approach, tripartite bodies were a tool to legitimize reforms already decided, where the *"government simply informs 'social partners' of its intentions and seeks labour assent to fait accompli"*.¹¹⁵ Tripartism in transition resulted to be a way for belittling unions, restrict state perimeter and conclude symbolic, general and non-binding agreements.

Still following Ost's argumentations, other consistent weaknesses of tripartite experiences came from the structure of employers' and workers' associations. In general, employers' organizations were representative of public companies already destined to privatization. The few private employers represented were in general domestic owners, while public policies generally and successfully aimed at attracting foreign investment and integrate CEE countries in the European and global chains of production. With a lack of representation of foreign investors, that in general preferred not to participate in tripartism,

"tripartite discussions thus concern[ed] policy for the state sphere, where the chief issue is how to manage long-term decline. In the private sphere, tripartites try to establish minimum ground rules, and then push matters to bilateral collective bargaining (if business agrees), with capital having the upper hand. For the most part, then, tripartism does not affect that sector where the long-term stability of industrial relations will be established".¹¹⁶

For Ost therefore, while tripartism in the beginning could be interpreted as a *'concession'* of neoliberals to *gradualists* political forces, it soon turned to serve the implementation of neoliberal agenda while assuring workers' acceptance of reforms and their long-term acquiescence. In the illusory corporatism, the incorporation of labour occurs as a *semblance of inclusion*. But the illusory corporatism is viable only because unions are weak. This structural characteristic shapes tripartism as a forum where the decision cannot be questioned by the labour. Therefore, labour acquires formal legitimacy only by abdicating every responsibility to influence the transitional path. From the governments' point of view, the formal inclusion of a weak labour in the decision-making process is a winning strategy which provides a labour-friendly façade for neoliberal reforms and a tool for government to control labour rather than empower it.¹¹⁷

¹¹⁵Ost, D., "Illusory Corporatism in Easter Europe", p. 106.

¹¹⁶ *Ibid.*, p. 107.

¹¹⁷ As Ost, D., "Illusory Corporatism in Easter Europe...", p. 117, notes indeed, trade unions despite their weakness, in first years of post-communism were still the most organized actor in civil society and virtually could still be able to question the neoliberal agenda.

The radical differences in the analyses¹¹⁸ and viewpoints between the paradigms of transformative and illusory corporatism is an important tool to understand the crucial role of tripartism during CEE's transition.¹¹⁹ While Iankova's transformational corporatism recognizes the role undoubtedly played by tripartism in the successful transition to market economy of CEE countries, Ost's concept of illusory corporatism helps us to better understand the structural weakness of labour in post-communist countries, questioning the very nature of the *corporatist* practices of these countries.

In facts, as Ost and Crowley¹²⁰ comprehensively explain, throughout the region labour can be considered weak from several points of view. Since the very early 1990s, levels of unions' membership, coverage and strength of collective bargaining, number and impact of strikes, as well as unions' influence on public policies have been drastically reducing together with workers' wages and their living conditions. In the first decade of post-communist transformations, while trade unions attempted to cope with new *rules of the game*, workers faced increasingly authoritarian managements and almost the complete absence of unionism in the private sector.¹²¹ Therefore, decreasing representativeness of workers, lack of capabilities in influencing public policy despite the pervasiveness of tripartism, as well as long-term inability to obtain raising of salaries and a better quality of working conditions are the signs of a structural labour weakness and marginalization. Reasons and roots for this weakness, as Ost and Crowley¹²² admit, can be interpreted as the result of globalization, technological innovations, fragmentation

¹¹⁸ It is worthy to also underline the different perception about involvement of IMF and other International Financial Institutions in tripartite practices. While in Iankova (2002) they are seen as an important force enabling the institution of tripartite councils, for Ost (2010) they represent a constant pressure from outside, pushing tripartite bodies to implement neoliberal agenda.

¹¹⁹ Iankova's and Ost's viewpoints are clearly on opposite sides. They focus on different aspects and stress different outcomes. The literature on post-communist tripartism is indeed broad and multifaceted and Iankova and Ost represent arguably, the opposite poles of a wide spectrum of more halfway scholars' conclusions. Further interesting perspectives can be found in: Kubicek, P., "Organized Labor in Postcommunist States: Will the Western Sun Set on It, Too?", *Comparative Politics*, Vol. 32, No. 1, Oct. 1999, pp. 83-102.; and in: Orenstein, O., M. and Hale, E., "Corporatist Renaissance in Post-communist Central Europe?", in: Candland, C. and Sil, R. (eds.), *The Politics of Labor in a Global Age: Continuity and Change in Late-Industrializing and Post-Socialist Economies*, Oxford University Press, 2001, pp. 258-282.

¹²⁰ Ost, D. and Crowley, S. (eds.), *Workers after Workers' States: Labor and Politics in Postcommunist Easter Europe*, Boston: Rowman & Littlefield Publishers, 2001a.

¹²¹ Ost, D. and Crowley, S., "The Surprise of Labor Weakness in Postcommunist Society", in: Ost, D. and Crowley, S. (eds.), *Workers after Workers' States: Labor and Politics in Postcommunist Easter Europe*, Boston: Rowman & Littlefield Publishers, 2001b, pp. 1-12, 4.

¹²² Ost, D. and Crowley, S., "Making Sense of Labor Weakness in Postcommunism", in: Ost, D. and Crowley, S. (eds.), *Workers after Workers' States: Labor and Politics in Postcommunist Easter Europe*, Boston: Rowman & Littlefield Publishers, 2001c, pp. 219-233.

of production and increasing power of transnational corporations, which indeed, are weakening unions in both Eastern and Western Europe.¹²³

Another interesting point of view is provided by Greskovits.¹²⁴ Applying the Hirshmann's framework¹²⁵ of *voice* and *exit* as alternative behavioural options for workers in CEE countries, he argues that given the low power and trust in unions, workers tend to use the *exit* option. This implies the massive flowing of workforce into the informal sector and partially explains also the increasing portion of informality and shadow-economy in post-communist countries.

Nevertheless, other factors seem to be playing a role in the labour's weakness. Ost and Crowley¹²⁶ stress the importance of the *ideological legacy of communism* as a factor in labour's power deterioration.

They argue that while CEE countries differ according to the speed of liberalization, level of welfare and level of market institutions already introduced during real socialism, all of them experienced the same structural weakness of labour, because they all share a common ideological legacy. In all the CEE countries indeed, during real socialism, unions were on the same side of management and had mostly a function of distributing social benefit to workers. Their role was not to defend workers' interests against the conflicting interests of the management. This interests-cleavage was in fact denied within the communist societal organization, where both unions and management had to respond to the will of the Party, and where they all, were part of a classless society – at least theoretically.

The transformation of this institutional structure has strongly affected the capacity of unions to cope with the new liberal society. Nor unionists were able to reshape their role in a market economy neither workers believed that unions would have been able to protect their interests. As Ost¹²⁷ describes in detail, communism gave workers a twofold perception of their role. On the one hand, unions were the only organization which could not be openly suppressed. Their interests were considered as the universal ones, shared by the workers' society as a whole. Thus, unions were the only recognized actor within society, which could claim for a better piece of the

¹²³ See also: Crowley, S., "Explaining Labor Quiescence in Post-Communist Europe: Historical Legacies and Comparative Perspective", *Center for European Studies Central and Eastern Europe Working Paper No. 55*, Oberlin College, 2002.

¹²⁴ Greskovits, B., *The Political Economy of Protest and Patience: East European and Latin American Transformations Compared*, Budapest: Central European University Press, 1998.

¹²⁵ Hirshmann, A. O., *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*, Cambridge, Mass., and London: Harvard University Press, 1970.

¹²⁶ Ost, D. and Crowley, S., "Making Sense of Labor Weakness in Postcommunism", in: Ost, D. and Crowley, S. (eds.), *Workers after Workers' States: Labor and Politics in Postcommunist Eastern Europe*, Boston: Rowman & Littlefield Publishers, 2001c, pp. 219-233.

¹²⁷ Ost, D., *The Defeat of Solidarity: Anger and Politics in Postcommunist Europe*, Ithaca and London: Cornell University Press, 2005.

pie, for a redistribution of resources. On the other hand, workers in a workers' state have to represent universal interests and therefore not particular ones. In the divisions of powers then, unions became strongly controlled by the Party and unable to represent the peculiar and discrete interests of workers. The particular interests of workers in a workers' state are indeed occluded by the interest of the elites in power, because the workers' interests are the universal ones and the universal ones are decided by the Party. Workers could not have true and autonomous voice and their claims had always to be in line with the centralized political wish. In this environment, labour is a strong actor but still not able to create the consciousness of its particular interest and unaware of its peculiar position in the production system.

When real socialism fell apart, a new public discourse pictured the fast marketization and the dismantling of welfare as the *new* general interest. Unions accepted the new situation and tried to cope with it without resisting or influencing it, as they used to do during communism. Nevertheless, as Ost¹²⁸ explains in relation to Poland (but we could easily generalize to the CEE region as a whole), in the collapse of the communist regime, workers had a pivotal and major role. As the principal organization within the society, they could lead the revolt. Nevertheless, from this position of power they retreated and accepted entirely the neoliberal agenda of transition.

Once again, the role of legacies may help in attempting further explanations. Following Ost's reasoning¹²⁹, if communism was able to provide universal basic social welfare, it never coped with the ambitions of the most skilled and productive workers who thought to deserve better rewards for their talents. When the regime collapsed, leaders of unions, especially the anti-communist activists, were the most skilled and ambitious workers, who rejected the rules of the *nomenklatura* and the pressure of political elites. They believed that after the regime's collapse, they could finally be fairly rewarded for their perceived superior talents.

After decades, the ruling principle at workplace "they pretend to pay us and we pretend to work" fell apart and skilled workers wanted, finally, to distinguish themselves from the unskilled ones. Thus, they showed to be ready to accept the entire recipe of capitalism¹³⁰ without really knowing

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*, p.138-139.

¹³⁰ As Ost (in: *The End of Postcommunism: Trade Unions in Eastern Europe's Future*, *East European Politics and Societies*, Vol. 23, No. 1, February 2009, pp. 13-33, 17) puts it: "To be sure, unskilled rank-and-file workers in the old communist factories liked unions because they wanted protection. But in the postcommunist East it was almost entirely skilled and more highly educated workers who headed unions in the large manufacturing plants. This was true for the former communist unions, since the Party had always relied on moderately educated, middle management types to be union representatives. And it was true for the independent, anticommunist unions, whose activists tended to be skilled, ambitious workers who rejected the *nomenklatura* system and sought upward mobility. 14 None of the postcommunist unions, in other words, were created or run by the kinds of workers (unskilled) who most needed unions to protect them from the negative effects of market reform. Instead, they were

what trade unionism in a market economy, could mean. Unions' leaders therefore, were not willing to protect workers from the harms of factories' restructuring and privatizations. On the contrary, they were standing for a rationalization of these same factories, convinced that once rationalized, their work could be finally be appreciated.

Hence, Ost's conclusion is that the labour marginalization during transition happened significantly because unions played a pivotal role in their own decline. Unionists embraced the market economy sure of the rightness of their choice. They were the first not to believe in unionism, looking at unions as an outdated soviet relic made for protecting the unmotivated and unskilled, who prospered during the previous regime; who were the primary symbol of that same regime in the common perception. The problem in Eastern Europe then, *"is not that labor was weakened after 1989 - it was not even independent before then - but that it was created as a weak actor"*.¹³¹

Despite the fact that this situation is slightly changing, according to the same observers, communist legacies are still a big constraint to develop a modern, market economy oriented, conscious and strong labour movement in Eastern Europe. Also, despite common and global factors threatening unions both in Western and Eastern Europe, Ost and Crowley find in the communist legacies the main distinguishing characteristic between Western and Eastern Europe's labour movement's decline. As they argue:

"while unions in the West are trying to counteract the tendencies weakening unions, Eastern Europe labor seems to believe that weak unions are precisely what capitalism is all about. They tend to see unions as rear-guard institutions for the weak, relevant chiefly for obsolescent state sectors, rather than as vital representatives of labor against capital, let alone as agent of expanded citizenship".¹³²

Therefore, if unions in the West are consolidated institutions facing hard times but likely to persist as strong social actors even through globalization, labour in the East *has been created* already as a weak actor, which has to face the challenges of globalization from a very vulnerable position.¹³³

run by those who believed they had an interest in reform, and who thought unions would be an obstacle every bit as much as the new market elites did."

¹³¹ Ost, D., The End of Postcommunism: Trade Unions in Eastern Europe's Future, *East European Politics and Societies*, Vol. 23, No. 1, February 2009, pp. 13-33, 29.

¹³² Ost, D. and Crowley, S., "Making Sense of Labor Weakness in Postcommunism", p. 230.

¹³³ Noteworthy for a further critical reasoning on Ost's thesis is the Bohle and Greskovits' viewpoint (in: "Capital, Labor and the Prospects of the European Social Model in the East", *Central and Eastern Europe Working Paper No.*

Finally, once recognized the structural marginalization of labour in post-communist states, it may be useful to investigate the consequences of this *status quo*. As Iankova claims in fact, labour weakness does not apparently hinder the institution of tripartite bodies in all the CEE countries alike and arguably, it did not obstruct so far the transition toward market economy and democracy. Nevertheless, a further analysis can reveal other important aspects.

As, once more Ost and Crowley¹³⁴ argue, unions' weakness hinders labour incorporation in the system of policymaking in liberal democracies. This remains a main threat for democracy because it deprives an important part of society of any political influence. If labour is weak, it is unable to influence policy, no matter how well tripartism is institutionalized. Moreover, if unions are marginal, material living conditions of workers will arguably face deterioration due to a lack of organizational capacity and political voice. For the authors, the empowerment of citizens with free vote and fair elections seems to be not enough to completely consolidate transition, and "*until labor is successfully incorporated as an influential and rewarded player, the stability of liberal democracy will remain in question*".¹³⁵

As Ost¹³⁶ claims, an organized labour is essential for long-term consolidation of liberal democracy, because it channels the *economic anger* of citizens along class cleavages. And class cleavages are crucial, because they are based on the *logic of interests*, which recognizes the existence of conflicting group in society and mediate between them. Ost therefore, defines class conflict as a:

58, Centre for European Studies, Harvard University, 2004). Analysing the interpretation centered on ideological communism legacy, they claim that labour itself cannot be considered as the only explaining factor of the constituent weakness of labour and its marginalization in the new capitalist economy. Therefore they focused on the role and structure of capital in CEE concluding that the main characteristics of economic activities developed in the East play against an upspring of labour as well as a possibility of true social compromise through tripartism. Labour intensive export industries, that are the main activities in CEE countries, promote rootless management, inclined to move its production rather than bargain with unions. In the same time, it leads to "conservative alliances" between foreign capital and local businessmen which tend to contain labour demands. Furthermore, the structure of the capital in the East leads to competition among neighbouring countries which pursue to attract foreign production. From the labour side, the lack of labour power as consumption and factor of demand is the results of low wage that do not allow workers to buy the goods they produce. This further weakens labour and discourages social compromise.

Labour in the East is a weak actor for Bohle and Greskovits as well, but not only because of the ideological legacies of communism. Structures and forms of capital in the East are the exact opposite of the structures that led to the social compromise in Western Europe with Fordism-oriented producing system after II World War. Therefore, capital and investments play a crucial role in the constituent vulnerability of Eastern labour and accordingly, in the Eastern unsuccessful implementation of corporatism based on the Western European model. As they summarize: "*the [European] social model has not travelled to the East because its socioeconomic foundations, or in our terms, the industrial building block of a capital-labor accord, have not travelled either*" (*Ibid.*, p.10).

¹³⁴ Ost, D. and Crowley, S., "Making Sense of Labor Weakness in Postcommunism".

¹³⁵ *Ibid.*, p. 232.

¹³⁶ Ost, D., *The Defeat of Solidarity: Anger and Politics in Postcommunist Europe*, Ithaca and London: Cornell University Press, 2005.

*“militant challenge to private property, but not necessarily a rejection. It is premised on the claim that those who dominate the market economy do not represent universal interests, and that civil society is made up of discrete groups whose crucial difference centers on the distribution of wealth and power”.*¹³⁷

The class conflict, subsequently, has to be seen as a “*cleavage around which social conflicts can be organized and economic anger mobilized*”,¹³⁸ but still, this “*social antagonism*” is organized “*in an inclusive way because the competing sides are recognized as part of the same overarching community*”.¹³⁹ Class conflict can be channelled within liberal democratic institutions precisely because the *other* is recognized as a legitimate part of the same society, which has to be confronted in order to jointly reach a deal and not be eliminated or expelled. Class cleavages include the existence of complex social groups with adverse and competing interests and mobilize institutional resources to find a deal, mitigating the externalities of conflict through dynamic balances.

Obviously, the absence of class cleavages does not imply the absence of societal conflicts or anger and frustration among social groups, especially during hard times such as transition. Without inclusive class cleavages, Ost¹⁴⁰ argues that anger risks to be organized along *identity-based cleavages*. These are exclusive and illiberal, because are not based on the acceptance of necessary and legitimate competitors in society. Their aim is not to bargain a share of wealth or power, but to convert or even eliminate the *other*. Identity cleavages – both religious linguistic, ethnic and the like – define the opponents as “aliens” to be expelled, or as traitors that are responsible for the system’s failures. As Elster et al.¹⁴¹ argue, while class conflict embraces the possibility of compromise (a “*halfway meeting*” as authors puts it), identity-based divisions makes the parties consider each other as mutually threatening. There is no wish to reach a compromise because the very same existence of the *other* is perceived as a danger or a constraint towards wealth and wellbeing.

Therefore, strong unions remain the only legitimate labour actor, which can organize labour along class cleavages and assure liberal and inclusive class conflicts instead of identity based divisions. Marginalized and weak labour, on the contrary, fails in channelling workers anger within liberal class divisions and risks to lead them towards illiberal and exclusionary identity-based conflicts. In post-communist states, where the labour was *created as a weak actor*, the risk that the organization of interests follows illiberal cleavages is particularly strong. In the 1989

¹³⁷ *Ibid.*, p. 185.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*, Chapter 7, pp. 179-204.

¹⁴¹ Elster, J., Offe, C. and Preuss U. K., *Institutional Design in Post-communist societies: Rebuilding the Ship at Sea*, Cambridge: Cambridge University Press, 1998, Chapter 7.

aftermath, unions were not ready to recognize themselves as representative of particular interests of discrete societal groups. Consequently, with market economy, they failed to recognize the existence of conflicting interests within the new society and therefore they failed to develop a class-conflict discourse.

On the other hand, the pressure to implement neoliberal reforms, exercised by political liberal elites, played a crucial role in marginalizing unions and accompanying the shift of economic anger in the direction of identity-based cleavages and conflict.¹⁴² Indeed, since the very early stages of transition, political elites presented neoliberal reforms as the only reasonable way to deal with the transformation. The few and feeble oppositions were pictured as irrational and unreasonable, since the set of reforms were described as not based on political legitimate choices, but as the only viable and reasonable thing to do. Subsequently, while labour was mostly acquiescent and prone in front of the main effects of transition, liberal elites kept picturing unions as a possible obstacle in the path toward market economy. The result was that unions, fighting for their own survival, were not able to organize economic anger along class division and shifted their mobilizing and aggregation power toward illiberal identity-based discourses, thus endangering the democratic system as a whole.¹⁴³

Case study: social dialogue in Georgia

This last part of the research briefly outlines the main stages of Georgia's post-soviet transition, focussing on the structural and practical changes of societal interests' organization in different periods. The paper further concentrates on the last years of Saakashvili's period and in the first years of the new *Georgian Dream* government, when social dialogue was firstly introduced and institutionalized in the country. Finally, the research's conclusions regarding the role of

¹⁴² In this regard, Bohle and Greskovits (in: "The Political Economy of Protest and Patience in East-Central Europe. The 1990s and the Early 2000s", *Taiwan Journal of Democracy*, Volume 8, No 2, 2012, pp. 105-112) offer an insightful analysis of the relations between transition and nationalism. In their article, they mention Offe's description of the three transition's main challenges: building of an independent nation state, of a democracy and a market economy "from scratch" (in: Offe, C., "Capitalism by Democratic Design? Democratic Theory Facing the Triple Transition in East Central Europe", *Social Research: An International Quarterly*, Vol. 58, no. 2 (Winter 1991), pp. 865-892.).

If Offe was sceptical that post-communist countries would be successful in building simultaneously the three sets of institutions, Bohle and Greskovits recognize how transitional states manage to achieve *low-level equilibrium* instead, introducing partially elements of both capitalism and democracy. Thus, they analyse how post-communist states used different strategies in order to achieve low-level equilibrium balances relying on welfare transfers to mitigate negative effects of reforms, as well as constructing, in certain cases, nationalist discourse to create social cohesion at price of a not inclusive democracy (authors refer to Baltic States and Croatia).

¹⁴³ This is the thesis found in Ost (2005). As abovementioned, he analyses in depth the situation of the Polish trade union *Solidarnosc*, but as recognized in the same book, his main findings can be generalized to the broader post-communist space.

international actors and the effectiveness of social partnership in the country are drawn, in the light of the development of social dialogue in EU as well as in the CEE's transition as described in the previous sections of the paper.

Shevardnadze's hybrid capitalism

In the first months after independence, the Republic of Georgia experienced a violent outburst of ethnic and nationalistic tensions while unprepared and populist elites did not achieve any significant result in the state-building process. Dramatically violent ethnic and territorial clashes occurred in the provinces while ungovernable paramilitary groups increased crime rate and insecurity throughout the country. The first post-independence president, Zviad Gamsakhurdia, did not reduce state control and management monopolies in economy, because of the lack of implementation of active transition policies.

The increasing power of paramilitaries, the radicalization of territorial clashes and the disastrous economic situation led to the collapse of the first presidency¹⁴⁴ and to the return of Shevardnadze, former Georgian Communist Party's First Secretary since 1972, in power. Firstly, as unelected head of an emergency State Council and later as legitimate president, Shevardnadze indeed led the first stage of state building and transition towards market economy and democracy in Georgia. In 1992, as de Waal argues:

*“Georgia was admitted to the United Nations but could barely be called a state. Abkhazia, Ajaria and South Ossetia were running their own affairs, independent of Tbilisi, while there was a low-level civil war in the western region of Mingrelia”.*¹⁴⁵

During Shevardnadze's period, Georgia attracted foreign aids, international attention and support. In the first years of his presidency, warlords' power was gradually curtailed while the conflicts with the breakaway regions escalated and then were frozen.¹⁴⁶ The territorial conflicts and the persistent threats to the national integrity “ruled out ‘normal politics’ in Georgia” and national security issues gained relevance over socio-economic ones, contributing to the concentration of power in political elites.¹⁴⁷ A long process of land and urban housing privatization began in 1992. In the following years privatization of state enterprises started through the distribution of public vouchers while new tax laws were introduced – measures that had limited results in increasing state revenues. Between 1990 and 1994, national GNP decreased five times, reaching the economic level of 1960s.¹⁴⁸

¹⁴⁴ Jones, S., *Georgia: A political history since independence*, London: I.B. Tauris, 2013, chapters 2-3, pp. 24-73.

¹⁴⁵ Waal, de T., *The Caucasus: an introduction*, Oxford: University Press, 2010, p. 188.

¹⁴⁶ *Ibid.*, pp. 188-189.

¹⁴⁷ Jones, *Georgia: A political history since independence*, p. 97.

¹⁴⁸ *Ibid.*, p. 93.

After the collapse of the Soviet regime, Georgia's economic decline was one of the most severe in the region. The main features of post-communist Georgia were a dramatic deindustrialization resulting from the collapse of soviet chains of production and distribution, the collapse of international trade and the minimal inflow of foreign capital. The skilled workforce migrated abroad while delayed privatization delivered poor results with opaque cautious schemes that regularly created state monopolies or transferred the properties to personalities loyal to the political elites. This caused the deterioration and progressive dismissal of the post-soviet industrial infrastructures together with the creation of a sort of *patronage-capitalism*.¹⁴⁹ As Jones puts it, quoting a former chairman of Georgian Parliamentary Budget Committee, "*no Georgian businessman could achieve success under Shevardnadze without some form of government-granted financial privilege or patronage*".¹⁵⁰

Under Shevardnadze, Georgia became part of the major international institutions, liberalized its trade regime, introduced a national currency and several market-economy regulations, ratified all the 8 fundamental ILO's conventions and adopted a new constitution. Nevertheless, the rapid transformation was accompanied by the fall of public revenues, the increase of systemic corruption and a greater dependence of the population on informal economy and even illegal activities. Concerning the organization of interest associations in Shevardnadze's Georgia, weak and rarely independent groups existed. Employers' associations generally detained "*unhealthily intimate*" relations with the government.¹⁵¹ The allocation of government' contracts and privatization auctions followed the agreements established within informal networks of patronage while the most important businesses' organization exercised often an informal influence on the law-making process. Concerning labour, the transformation of the employment structures and the close ties between government and employers, marginalized Georgia's Republican Council of Trade Unions.

Migration, deindustrialization, economic stagnation, unemployment and self-employment (generally indicating farmers working on the subsistence level) defined a hard framework for the mobilization of workers. Indeed, the decline of the industrial workforce and public-sector employment reduced drastically the trade unions natural base. Moreover, the post-soviet Georgian trade unions, similarly with their counterparts in all the post-communist Europe, were unable to re-interpret their role in the changing environment of a transition towards market economy. The Georgian trade unions during Shevardnadze's period were highly corrupted and not engaged in any serious activity for the protection of their members' interests and rights. After the collapse of the Soviet Union, trade unions inherited a conspicuous estate capital as sanatoria, hotels and administrative buildings. Their main activity was then, maximizing the

¹⁴⁹ *Ibid.*, Chapter 7.

¹⁵⁰ *Ibid.*, p. 183.

¹⁵¹ *Ibid.*, p. 118.

rental returns of the properties and trying to protect their ownership in protracted legal disputes when the government claimed the property of these estates.¹⁵²

Despite a law on trade unions' activities adopted in 1997 and the ratification of ILO core labour standards conventions, workers were deprived of collective representation and protection. Clearly, given the context, it was difficult for any tripartite social dialogue to occur during this period. While labour was weak, corrupted and unaware of its role in the market economy, business seemed to not need any official institution to influence the government, because a more effective lobbying channel could be used through opaque, personal and informal ties.

With integration in the international community and the deep dependency on foreign aids and on the conditional credit programs of the International Monetary Fund and the World Bank since 1994-95, the transition of Shevardnadze's Georgia pursued a gradual changeover towards neoliberalism.¹⁵³ Nevertheless, local elites managed to slow down the passage to liberalization, marketization and privatization advised and requested by international actors. While the state radically retreated from the provision of health care and education facilities and underwent a protracted process of privatization as required by the international institutions, local elites still succeeded in manipulating the reform agenda of external actors.¹⁵⁴ Indeed, in line with the neoliberal agenda, after a first deterioration of public services, in 1995-96 the free public healthcare system was comprehensively privatized and the public social expenditure in education, pensions and unemployment compensations kept a path of drastic reduction.¹⁵⁵ While on the one hand the state was formally reducing its provision of welfare services, on the other hand there was a persistent strong administration with regulatory functions used by public officials to exert control over economic actors. This led to systematic corruption and to the relevance of informal patronage networks in having access even on basic public services.

Thus, Georgian capitalism during Shevardnadze's period can be defined as a *hybrid*, with a strong state regulatory role in economy, which, nevertheless, did not pursue any particular developmental goal, but rather attempted to control and capture the added-value created by the economic actors.¹⁵⁶ In these circumstances trade unions and employers' organizations had very

¹⁵² Transparency International Georgia, *The Georgian Trade Union Movement*, February 2010. Available at: <http://transparency.ge/en/node/322>. [Accessed: 17/11/2014].

¹⁵³ Interview: Muskhelishvili, M., Researcher, Tbilisi, November 2014. See also: Jones, *Georgia: A political history since independence*, pp. 182-183.

¹⁵⁴ Christophe, B., *From Hybrid Regime to Hybrid Capitalism? The Political Economy of Georgia under Eduard Shevardnadze*, Center for Contemporary European Studies, Conference paper for the conference Varieties of capitalism in post-communist countries, 23-24 September 2005, University of Paisley. Available at: <http://georgica.tsu.edu.ge/?p=209>. [Accessed: 17/11/2014].

¹⁵⁵ Baumann, E., "Post-Soviet Georgia: It's a Long, Long Way to "Modern" Social Protection", *Économies et Sociétés, Série Développement, croissance et progrès*, Volume 46, 2/2012, pp. 259-285, 268-270.

¹⁵⁶ Christophe, B., *From Hybrid Regime to Hybrid Capitalism?*

scarce representativeness, while the government kept opaque relations with the business only. The development of a transparent process of interest's organizations in policy-making was discouraged and unlikely, while corruption and patronage became the commonly accepted principle of organizing interest groups' interaction. The distribution of powers through corruption and the accommodation of socio-economic demands through informal networks obstructed the creation of collective and independent interest groups and therefore the need for tripartite social dialogue institutions.

Saakashvili and the Rose Revolution

An almost failed state, with high rate of corruption and crime and exhausted citizens led to the Rose Revolution. On January 2004, Mikheil Saakashvili, the most popular among the revolution's leaders (Zhurab Zhvania and Nino Burjanadze being the other two), was elected president with 96 percent of votes.¹⁵⁷ In the first months following the Rose Revolution, the newly appointed young and western-educated governing elite delivered the greatest number of reforms introduced in Georgia. Successfully, the new government tackled the widespread corruption and accelerated the path toward neoliberalism and market economy, already started with Shevardnadze. The promise to crack down on corruption and the widespread criminality was peremptorily kept. Former ministers and businessmen, accused of enriching themselves during the old regime, were captured and detained with television cameras filming the arrests. They were put in pre-trial detention and forced to pay fines of millions of dollars which supplemented state revenues.¹⁵⁸ All the main state's assets and public companies were rapidly privatized, while marketization of healthcare and education continued together with social services' commodification at large.¹⁵⁹

The *leitmotif* of the economic *catching-up* after the failures of Shevardnadze's economic stagnation¹⁶⁰ justified the radicalism of reforms. Indeed, all the state regulation mechanisms were abolished: the Food Safety Inspection Agency, Phytosanitary Control Regulatory Commission¹⁶¹ and later on, the Labour Safety Inspection and the State Employment Service. The fight against corruption as a mobilizing pretext allowed the creation of a minimal state. Every administrative branch with an economic regulatory function was pictured as useless, if not harmful, for generation of wealth and was consequently abolished. The government's rhetoric outlined

¹⁵⁷ ESI, *Georgia's Libertarian Revolution. Part three: Jacobins in Tbilisi*, European Stability Initiative, Berlin – Tbilisi – Istanbul, 2010, p. 11.

¹⁵⁸ Waal, de T., *The Caucasus: an introduction*, p. 195.

¹⁵⁹ Baumann, E., "Post-Soviet Georgia: It's a Long, Long Way to "Modern" Social Protection.

¹⁶⁰ *Ibid.*, p. 20.

¹⁶¹ Khaduri, N., "Economic System in Georgia, Moving Closer to Europe?" in: *Economic and social policies in Georgia, Armenia and Azerbaijan*, Friederich Ebert Stiftung, Centre for Economic Problem Research, 2010, pp. 61-75.

Singapore or Switzerland as models of development for Georgia, referring to the minimal state and the *capital-friendly* environment.¹⁶²

The new government focussed exclusively in boosting economic growth through inflows of foreign investments while neglecting any additional developmental goals.¹⁶³ Consequently, a flat-rate tax regime was introduced and the licences regime to start businesses was drastically simplified. A new labour code based on the principle of free *hiring-and-firing* of employees came into force in 2006. It ensured the maximum level of workforce flexibility and labour costs' containment, legalizing oral contracts and establishing ineffective anti-discriminative rules in employment relations. Moreover, the dismissal of the Labour Inspection Agency and the Employment Public Service completed the total deregulation of labour market and accomplished the intention to neglect every possible state involvement in the implementation of active labour market's policies.

The international recognition of the Georgian *success story* arrived in the following years making Georgia the *best-practice* of neoliberalism in the Post-Soviet space and a matter of interests for neo-libertarians in all over the world¹⁶⁴. GDP and foreign investments kept growing with double-digit rates, while the country enjoyed the praise of World Bank's observers. In the World Bank's *Doing Business* 2007 index, Georgia ranked as the 6th most employer-friendly country in the world regarding labour regulation, while the labour code change was declared one of the world's *boldest reforms* in the years 2005/06.¹⁶⁵ In the following years, Georgia kept consistent good rankings in Ease of Doing Business Index, ahead of many EU member states.

Nevertheless, despite the neo-liberal discourse and successful rankings, the post-revolutionary Georgia was not free from contradictions and structural problems. As Timm¹⁶⁶ points out, the deregulatory reforms of the Revolution's aftermath were driven by anti-corruption instances against the legacy of Shevardnadze's period and were based on a deep-rooted suspicion towards state authorities' action. Therefore, deregulation meant initially limiting the role of the state in the economy, in order to free economic activities from state corruption. Nevertheless, the radical deregulation did not imply the end of state interference in the economic relations. Instead, state's action aimed at capturing and influencing the distribution of advantages, shifting from formal state policies to more informal means of intervention.

¹⁶² Waal, de T., *Georgia's Choices: charting a future in uncertain times*, Carnegie Endowment for International Peace, Washington D.C., 2011.

¹⁶³ Eradze, I., *Environmental Sustainability of Georgian Economic Policies in 2004-2013*, Center for Social Sciences, Tbilisi, 2014, p. 13.

¹⁶⁴ ESI, *Georgia's Libertarian Revolution...p.30*.

¹⁶⁵ *Ibid.*, p. 27.

¹⁶⁶ Timm, C., *Economic regulation and state interventions: Georgia's move from neoliberalism to state managed capitalism*, PFH Forschungspapiere/Research Papers, No. 2013/03PFH, Private Hochschule Göttingen, 2013. Available at: <http://georgica.tsu.edu.ge/?p=516>. [Accessed: 24/11/2014].

Through unofficial and unregulated actions, the governmental elite constantly infringed property rights and influenced rule of market competition with de-privatization (i.e. forcing Shevardnadze-era's businessmen to give back their properties to the state) or using public procurements and private-public partnerships to favour loyal entrepreneurs. Thus, despite the strong deregulated market economy, the lack of transparency and the concentration of powers allowed the governmental elite to keep a strong control over private actors, forming a new type of opaque connections and ties between public and private interests.¹⁶⁷ Moreover, the strong personalization of politics of those years was accompanied by the lack of an independent body of civil servants. The power was concentrated in the President and in his close inner circle¹⁶⁸ while for the enrolment of civil servants, flexibility and trustworthiness were preferred compared to long-term professional development.¹⁶⁹

Other scholars stressed how the post Rose Revolution's constitutional changes were implemented without any participatory debate while the ruling party perceived its own will as the universally accepted one through reduced pluralism and any possibility of dialogue with oppositions.¹⁷⁰ Furthermore, Papava underlines the opacity of privatization auctions¹⁷¹ and the incorporation of the independent State Department of Statistics in the Ministry of Economic Development in a clear governmental attempt to concentrate powers and control over the other independent public bodies.¹⁷²

Regarding social and economic achievements, while official rankings and growth rates could be considered remarkable, poverty and unemployment remained untouched.¹⁷³ As UNDP recognizes, *"the problem of poverty was aggravated by a relatively high inequality level"*.

¹⁶⁷The deregulation dogma led to the dismissal of the Georgian anti-monopoly agency. This was replaced by a competition law, which did not institutionalize any other autonomous anti-trust institution. This lack of regulation meant therefore, lack of control on market competition, increasing the risk of opaque market relations.

¹⁶⁸ In the immediate aftermath of Rose Revolution, "the so-called power ministries were made directly subordinate to the president, not the prime minister." (ESI, *Georgia's Libertarian Revolution... p. 13.*)

¹⁶⁹ De Waal, T., *Georgia's Choices: charting a future in uncertain times*, p. 7. See also: Timm, C., *A liberal developmental state in Georgia? State dominance and Washington Consensus in the post-communist region*, PFH Forschungspapiere/Research Papers, No. 2014/02, PFH Private Hochschule Göttingen, 2014. Available at: <http://georgica.tsu.edu.ge/?p=575>. [Accessed: 24/11/2014], pp. 5-9.

¹⁷⁰ Muskhelishvili, M., *Constitutional Change in Georgia*. Available at: <http://www.idea.int/conflict/cb/upload/CBPGeorgiaMarina.pdf>. [Accessed: 24/11/2014].

¹⁷¹ Papava, V., *Reforming the post-Soviet Georgia's Economy in 1991-2011*, GFSIS Center for Applied Economic Studies Research Paper, 03-2013, GFSIS, Tbilisi, p. 89.

See also: Association Green Alternative, "Hidden costs of privatization", Tbilisi 2014. Available at: http://greenalt.org/wp-content/uploads/2014/03/HIDDEN_COSTS_OF_PRIVATIZATION.pdf. [Accessed: 19/11/2014].

¹⁷² *Ibid.*, p.62.

¹⁷³ Gugushvili (in: *The new welfare agenda – missing the most vulnerable once again*, Center for Social Sciences, Tbilisi, 2013) noted as the poverty kept a constant rate throughout the years after Rose Revolution, underlining as this phenomenon, that public social expenditures failed to contain, was not confined to any particular vulnerable social group but represents still a structural characteristic of the overall Georgian development.

Growing *Gini coefficient* and ineffective social policies in reducing poverty presented Georgia as the poorest performer in the region in terms of inequality and poverty. As the UNDP further explains, “one important reason is that development reforms, including privatization, failed to stimulate employment”.¹⁷⁴ In 2006, the Georgian government eliminated the unemployment allowances’ system, introducing a three-year program to stimulate employment which however failed to create new jobs.¹⁷⁵ In 2008, after new presidential elections called by Saakashvili to react to massive street protests violently repressed by the police, the President and his United National Movement Party was confirmed in power. The electoral campaign’s speeches, for the first time, focused on economic and social hardship. As promised during the campaign, the new executive launched the “An Integrated Georgia without Poverty!” programme. Despite the fact that the United National Movement widely promoted the programme, its objectives and means to reduce poverty were unclear, unrealistic and eventually ineffective.¹⁷⁶

If during the first post-revolution years the ruling party consistently avoided to consider any governmental social responsibility, after 2008 the state started to express concern for social problems.¹⁷⁷ The rhetoric of earlier full-neoliberal reforms pictured the role of state as necessarily minimal, engaged in dismantling the old administrative constraints built under Shevardnadze. Therefore, the reduction of poverty and unemployment was almost never addressed as a public policy target and the idea of development matched the mere economic growth. Consequently, the government could avoid social responsibilities focussing its narrative upon the results of international ranks, foreign direct investments and high rates of GDP’s growth, building a *trickle-down* narrative in which, even with an unbalanced and unequal economic growth, society at large would have enjoyed a growing piece of the pie. Nevertheless, after 2008 the government’s rhetoric shifted towards the recognition of unemployment and poverty as major and direct challenges for the state. Ruling elites constructed a new public discourse where the role of the state became more active in creating infrastructures, stimulating particular sectors of the economy and attracting international aid for the post-2008-war reconstruction. On the other hand, the economic liberalism was not questioned and was perceived as an irreversible path for the country. This created a contradictory and *confused*¹⁷⁸ public narrative of the state’s developmental role, which however, did not significantly change the spirit of existing public policies.

¹⁷⁴ UNDP, *Aid for Trade Needs Assessment – Georgia. Trade and Human Development*, 2011. Available at: <http://www.ge.undp.org/content/georgia/en/home/library/poverty/aftgeorgia2011/>. [Accessed: 24/11/2014].

¹⁷⁵ Papava, *Reforming the post-Soviet Georgia’s Economy in 1991-2011*, p. 60.

¹⁷⁶ Papava, V., *Poverty Reduction through Private Sector Development in Georgia: Policy, Practice and Perspective*, *Caucasian Review of International Affairs*, Vol. 3 (3), Summer 2009, pp. 307-316.

¹⁷⁷ Rekhviashvili, L., ‘Vision and the Role of the State; Visions of Post-Revolutionary Georgian Government’, *Caucasus Social Science Review*, Vol.1, Issue 1, 2013.

¹⁷⁸ *Ibid.*

Confirming the ruling elite's loyalty to neoliberal's recipes and in order to make the economic neoliberalism course irreversible, in 2011 the *Economic Liberty Act* was adopted by the Parliament. The Act amended the constitution, establishing that new taxes or the increasing of the existing ones would be possible only in case of an affirmative vote of a nationwide referendum. Moreover, among other obligations, the same law established that public deficit cannot exceed 3% of annual GDP and the public debt is mandatorily capped at 60% of the GDP.¹⁷⁹

Georgia's European choice, social partners and external actors

Georgia joined the Council of Europe in 1995 and in 2005 ratified several articles of the Council of Europe's Social Charter. Georgians' European choice is a matter of history, culture, future and civilization, as the former President Saakashvili has frequently put it.¹⁸⁰ Apart from the European choice, which represented a major theme in the public discourse of the Rose Revolution's elite, a comprehensive shift towards liberal values, security and stability, which entailed also the perspective of the future NATO's membership and the further economic political integration with the West at large was promoted.¹⁸¹ The contradictions between the neo-libertarian Georgian path of development and the aspiration of approximation with the ESM rose only later on, when ties between EU and Georgia strengthened.

Stable and strong relations between EU and Georgia began after the Rose Revolution, in the frame of the European Neighbourhood Policy programmes, aimed at enhancing prosperity, stability and security in the EU neighbouring countries. In December 2005, the EU granted Georgia the *General System of Preferences +* (GSP+), which is a privileged trade regime that provides tariff reductions and the progressive abolition of trade duties. It also requires compliance with the ILO core labour standards to all the parties. The GSP+ was extended in 2008 and in 2014 and will continue during a transition period of two years after the entering into force of the Deep and Comprehensive Free Trade Area (DCFTA) initialized and ratified in 2013-14.¹⁸²

Besides trade relations matters, EU launched the *Eastern Partnership* (EaP) multilateral programme, an advanced version of its previous neighbourhood policy with the Eastern neighbours. The EaP is a joint initiative between the EU, EU member states and the Eastern European partner countries. It enables partner countries interested in moving towards the EU and increasing political, economic and cultural links to do so. The aims of the partnership are,

¹⁷⁹ Papava, *Reforming the post-Soviet Georgia's Economy in 1991-2011*, p. 83.

¹⁸⁰ De Waal, T., *Georgia's Choices: charting a future in uncertain times*, p.31-32.

¹⁸¹ *Ibid.*

¹⁸² 'Delegation of the European Union to Georgia's website. Available at: http://eeas.europa.eu/delegations/georgia/eu_georgia/political_relations/index_en.htm. [Accessed: 19/11/2014].

among others, the promotion of democracy, rule of law and good governance, the protection of environment, the economic and social development, the reduction of social inequality, the increase of stability and the support of civil society and *people-to-people* contacts through the establishment of simplified visa regimes.¹⁸³

A significant further step in strengthening EU-Georgia relations is the signature of the Association Agreement which increases bilateral cooperation, implies stronger and comprehensive approximation of Georgian legislation toward the partial adoption of the EU *aquis communautaire* and integrates Georgia within EU's common market.

This increasing commitment of Georgian elites to the EU's approximation came at odds with the developmental path since then pursued. Through the different steps of this increasingly closer relation, the libertarian elites showed scepticism and critique. As De Waal points out, local *think-tanks* close to the governing elite, showed strong reluctance and apprehension in regard to the Georgian approximation to EU, labelling the European social model as "*institutionalized developed socialism*".¹⁸⁴ Consequently, the governing party kept an ambivalent attitude towards two fundamentally opposite *European* and *Singaporean* models of development. On the one hand, the European approximation required stronger regulations in economy, from food and phytosanitary matters to labour relations and workers' rights protection. On the other hand, the Georgian developmental agenda, based on the Singaporean model, was founded on a totally free market, the minimal recognition of labour rights, the lack of anti-trust regulation and the attraction of foreign investment as main public policy's aim. This contradiction was consistently concealed and the definitive choice of one between the two alternative paths was postponed. Officials in Tbilisi, as Khuntsaria argues, proceeded with marginal reforms while using the discourse of EU approximation as a political tool to maintain the EU's political support and aid through a process of "*selective convergence*".¹⁸⁵

Concerning the structure and action of social partners and their relations with the government during Saakashvili's period, the European choice once again came at odds with the real practices. Despite the neoliberal legislation and the public discourse's praise of entrepreneurship and free market, bipartite relations between employers' associations and government were actually unofficial, opaque and informal. As Jones points out, "*business-friendly legislation comes*

¹⁸³ 'European Union External Action Service's website. Available at: http://eeas.europa.eu/eastern/index_en.htm. [Accessed: 19/11/2014].

¹⁸⁴ De Waal, T., *Georgia's Choices: charting a future in uncertain times*, p. 34. For a critical assessment the EU-Georgia DCFTA negotiations able to comprehensively summarize the concerns neoliberal Georgian elites see: Messerlin, P., Emerson, M., Jandieri, G. and Le Vernoy, A., *An appraisal of the EU's trade policy towards its Eastern neighbours: the case of Georgia*, Centre for European Policy Studies, Brussels, 2011.

¹⁸⁵ Khuntsaria, T., *Prospect of Deep and Comprehensive Free Trade Area (DCFTA) – Is there a European Way for Georgia?*, Center for Social Sciences, Tbilisi, 2012.

together with threats to business autonomy".¹⁸⁶ Infringement of property rights were frequent, especially in the earlier years after revolution, while later on a predatory financial police became an effective instrument of governmental control.¹⁸⁷ Later, the government became an even more active actor in economy through private-public partnerships and the strong ties with friendly businessmen consolidated through the assignment of public procurement to loyal employers and the creation of special accounts where enterprises could return the favours, with *voluntary contribution* to the state.¹⁸⁸

Thus, on the one hand, the government ideology and the hegemonic rhetoric lauded the free entrepreneurship as the only wellness creator; on the other hand, governing elites and public policies threaten independent business and free competition. Therefore, despite the presence of a great number of business associations, this could not be considered the signal of a dynamic role of interest organizations. On the contrary, these groups were unable or unwilling to influence public policies through transparent and institutionalised procedures. Consequently, measures concerning business activities were unilaterally taken by the government and the most effective channels of communication and lobby between policy-makers and entrepreneurial sector were still informal.¹⁸⁹ Indeed, if the Rose Revolution's ruling political elite got rid of petty corruption and organized powerful criminal groups, it did not succeed in dismantling patronage and *clientalism*.¹⁹⁰ The incorporation of capital's interest along opaque and informal ties between businesses and public administrators was the main consequence of this system.

Paraphrasing Jones,¹⁹¹ if starting a business and keeping it profitable was far more difficult than what international rankings suggested, it can be add that to be workers in Saakashvili's Georgia was definitely much worse. Trade unions underwent a major internal revolution in 2005. The internal transformation led to the replacement of the old-style leadership which presided the organizations since *Perestroika*. New and competent leaders took office and operated a dramatic structural rationalization in federations. The change of leadership and the reorganization led to the Georgian Trade Unions Confederation (GTUC), composed of 22 sectoral and territorial union federations, which replaced the previous Georgia's Republican Council of Trade Unions. The outgoing leaders, however, left no funds in the GTUC's coffers and signed away almost all the remaining union properties, probably in a desperate last attempt to secure government support.¹⁹² Since then, GTUC shifted Unions' activities toward a modern, market-economy oriented unionism, focussing on defending workers' rights at the national, sectoral and enterprise

¹⁸⁶ Jones, *Georgia: A political history since independence*, p. 119.

¹⁸⁷ *Ibid.*

¹⁸⁸ Papava, *Reforming the post-Soviet Georgia's Economy in 1991-2011*, pp. 88-89.

¹⁸⁹ Jones, *Georgia: A political history since independence*, pp. 119-121.

¹⁹⁰ *Ibid.*, pp.135-136.

¹⁹¹ Jones, *Georgia: A political history since independence*, pp. 214-215.

¹⁹² Transparency International Georgia, *The Georgian Trade Union Movement*, p. 4

levels, trying to consolidate and enlarge their membership and building strong ties with foreign actors as EU, ILO, ETUC and ITUC.

Only few months later, in 2006, the Georgian Parliament approved the new Labour Code and eliminated the Labour Inspection Agency. The overturn in the labour legislation, was the brand of the Rose Revolution's liberalism. Neither trade unions nor employers' associations were consulted in the law-making process, showing the government's aim to deliberately keep the organized interest groups' voices low.¹⁹³ The new code¹⁹⁴ was based on free hiring-and-firing principle and provided maximum flexibility both in employment and dismissal procedures. The law recognized the unilateral employers' right to significantly change aspects of the employment relation without the need of an officially agreed change of the contract. Furthermore, fixed-term labour contracts were admitted without limiting criteria and surprisingly, so did oral contracts. The fundamental principle was that labour relations are mere contractual relations, needless of special protection or public monitoring. In this way, the law could assure full labour flexibility to the employers and leave full autonomy to employers and employees to establish the terms of their relations through bargaining. Therefore, the law consistently avoided to fix legal and imperative minimum standards, leaving every aspect of the employment relation to the will of the parties. On the other hand however, despite the emphasis on the freedom of contractual relations in labour market, collective agreements and solving mechanisms of labour disputes were not regulated at all.

After the new law came into force and the Labour Inspection Agency was dismissed, even a ministry dedicated to labour issues only formally existed, incorporated in the Ministry of Health, Labour and Social Affairs. It literally had no funds and there was no staff responsible for matters related to industrial relations.¹⁹⁵ There were no offices or civil servants responsible for relations with social partners or engaged in monitoring labour code violations or collective labour disputes. The working time regulation did not provide imperative maximum limits. As Shvelidze argues, the labour code virtually allowed the parties to agree on an 84 weekly hours working

¹⁹³ Jobelius, M., *Economic Liberalism in Georgia: A challenge for EU Convergence and Trade Unions*, Friedrich Ebert Stiftung, Tbilisi, 2011, p.4.

¹⁹⁴ For an overview of 2006 Georgian labour code, see: Shvelidze, Z., *Transition from Soviet to Liberal Labour Law: Labour Standards in Georgia*. Available at: <http://ilera2012.wharton.upenn.edu/RefereedPapers/ShvelidzeZakaria%20ILERA%20updated.pdf>. [Accessed: 20/11/2014].

¹⁹⁵ ITUC and ETUC, *A Roadmap for Georgia*, 2012, p.8. Available: <http://perc.ituc-csi.org/Roadmap-for-Georgia?lang=en>. [Accessed: 20/11/2014].

As Muskhelishvili also noted in 2011, “*the dissolution of the labour inspection created a vacuum from the point of view of controlling labour conditions. There is no recording of unemployment, and no unemployment benefits. No ministry is in charge of elaborating or implementing labour policy, or collecting and analyzing relevant statistical data. There are no specialized courts or mediation institutions for the trial of labour disputes*”, in Muskhelishvili, M., *Social Dialogue in Georgia*, p. 12.

time, without establishing extra remuneration for extra time of work, in a clear violation of ILO's core conventions and the European Social Charter.¹⁹⁶ Similarly incomplete were the rules of paid leaves and maternity protection.

Furthermore, the code set up a minimal anti-discrimination legislation in the employment relations. Nevertheless, the burden of proof on the plaintiff and the employer's right to not provide the grounds of a dismissals made it practically impossible to prove the discriminatory nature of any employers decision.

Some personalities of the ruling party labelled the labour reform as an "*entrepreneurial revolution*",¹⁹⁷ and World Bank praised the radicalism of the reformers.

Nevertheless, the strategy used to attract foreign investors, providing flexible workforce while the capital friendly legislation, was this time, a clear violation of international ratified conventions. If in 2005 the Georgian parliament ratified the Council of Europe's *European Social Charter*, the following year, the same parliament passed a law which clearly violated that same convention's principles. Indeed, in 2010, the Council of Europe's Committee of Social Rights, reporting on the compliance of Georgia with the articles of the Social Charter, found several systematic violations of the rights to organize and bargain collectively and of the right to just conditions of work and fair remuneration.¹⁹⁸

Moreover, the annual observations of ILO's *Committee of Experts on the Application of Conventions and Recommendations* concerning Georgia, adopted since 2006, provides a more detailed picture of the scope of these violations. ILO's Committee of Experts' reports on Georgia stressed the systematic shortages of labour legislation regarding protection of freedom of association, protection against anti-union discrimination and from other kind of direct and indirect discrimination in both recruitment and termination of employment relations.

Furthermore, ILO consistently invited the Georgian government to enhance labour regulation in order to promote the collective bargaining with detailed rules, since collective agreements with trade unions and non-unionized groups of workers had equal status and contravened the spirit of ILO' convention No. 98. In addition, the Committee invited the government to provide a legal frame to create mechanisms of conciliation, mediation or voluntary arbitration to help reducing the incidence of labour disputes. It invited also to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to restore the activities

¹⁹⁶ Shvelidze, Z., "Working Time Regulation in Georgia", *E-Journal of International and Comparative Labour Studies*, Volume 1, No. 1-2, March-June 2012, pp. 99-115.

¹⁹⁷ Lado Gurgenzidze, former Prime Minister of Georgia cited in ESI, *Georgia's Libertarian Revolution...p.27*.

¹⁹⁸ European Committee of Social Rights, *European Social Charter (revised), Conclusions 2010 (GEORGIA)*, Articles 2, 4, 5, 6, 26 and 29 of the Revised Charter, Council of Europe, Strasbourg, December 2010.

of the labour inspectorate in order to ensure the effective enforcement of the labour legislation.¹⁹⁹

Lack of a solid labour legislation gave the green light to systemic and consistent employers' predatory practices. Widespread use of fixed-term contracts and unfair dismissals were easily used by the managements in order to avoid collective bargaining and obstruct trade unions' activities. The state as employer was particularly rough in the education sector where the free trade union suffered continual interferences and discriminations. On the other hand, the state as impartial enforcer of the Labour Code scored even worse, restricting frequently and arbitrarily, regular strikes and workers' demonstrations through police intervention.²⁰⁰

The GTUC's initial reaction was to lobby for a modification of the Labour Code. As the International Trade Unions Confederation (ITUC) puts it in one of its numerous reports:

*“the GTUC has taken a number of steps to try and ensure the adoption of a law that would protect unionists from discrimination including repeated protest actions held in front of the Parliament building. The GTUC also prepared a bill to amend and supplement the Georgian LC. According to Georgian Law for a new bill to be introduced for consideration directly by the citizens it should have 30,000 signatures. The GTUC gathered 100,000 signatures and introduced the bill to Parliament on February 3, 2009. Yet, the Georgian Parliament ignored the introduced bill and refused to consider it”.*²⁰¹

Subsequently, the GTUC's initiated *May-day* demonstrations, increased its involvement in civil society's activity in cooperation with NGOs and submitted bills and petitions to the parliament, collecting a remarkable popular support.²⁰² Nevertheless, none of these initiatives modified the government's approach. In such a hostile anti-labour environment, the GTUC had to struggle for its own survival. On the one hand, there were no channels for dialogue with the government and no mechanisms for social dialogue, collective bargaining and dispute resolutions at enterprise level. At company level, the existence of partnership relied exclusively on the

¹⁹⁹ See the ILO's website database for the Committee of Experts's conclusions, available at: <http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:20010:0::NO>. [Accessed: 20/11/2014].

²⁰⁰ For an overview of workers' rights violations in this period in Georgia, see:

- ITUC, “Countries at risk: 2013 Report on Violations of Trade Union Rights”, pp. 30-33. Available at: <http://www.ituc-csi.org/countries-at-risk-2013-report-on>. [Accessed: 20/11/2014].

- ITUC, “Internationally Recognised Core Labour Standards in Georgia. Report for the WTO General Council Review for the Trade Policies of Georgia”, December 2009. Available at: <http://www.ituc-csi.org/report-for-the-wto-general-council.5262>. [Accessed: 20/11/2014].

- ITUC, “Georgia: labour code tears fundamental rights to shred”, May 2008. Available at: http://www.ituc-csi.org/IMG/pdf/V_S_georgia_EN.pdf. [Accessed: 20/11/2014].

²⁰¹ ITUC, “Building democracy and trade union rights in the NIS”, ITUC-PERC Regional Conference, November 2010, p. 58. Available at: http://www.ituc-csi.org/IMG/pdf/NIS_report.pdf. [Accessed: 20/11/2014].

²⁰² Muskhelishvili, M., *Social Dialogue in Georgia*, Friedrich-Ebert-Stiftung, Tbilisi, 2011.

unilateral employers' predisposition. On the other hand, the lack of rules protecting unionists from unfair dismissals and the adverse governmental approach made it dangerous for unions to choose the path of industrial conflict. In few years after the 2006 Labour Code, the GTUC lost roughly 100 thousand members.²⁰³

Despite these difficulties, the GTUC turned from advocacy to pressure, strengthening relations with external actors. Firstly, Georgian unions established a fruitful and reinforced cooperation with ETUC and ITUC. The European and international counterparts provided support in capacity building, *train-the-trainers* programmes, assistance and lobby with the Georgian government as well as with ILO, Council of Europe and EU. Moreover, the GTUC capitalised a strengthened cooperation with EU, through projects implemented in the framework of Eastern Partnership and the *European Instrument for Democracy and Human Rights*.²⁰⁴ Definitely, the role of ILO has been a reference, providing capacity building projects and strengthening local competences, as well as a forum where the GTUC could strengthen ties with its international counterparts. In addition, ILO, through its committees that evaluate the quality of implementation of conventions in the ratifying countries,²⁰⁵ has put in the spotlight an increasingly noncompliant Georgian government, raising the international awareness on the issue.

With the support of ITUC and AFL-CIO, the GTUC filed petitions even to EU and US trade representatives, in order to raise awareness on the systemic noncompliance of the Georgian legislation with international labour standards and the country's international commitments. The GTUC asked these authorities to assess Georgia's eligibility for the privileged trade regimes, despite systemic violations of labour standards recognized by ILO and the Council of Europe's Committee of Social Rights.²⁰⁶ The US Government accepted the petition, which is still pending under review²⁰⁷ and started a strengthened cooperation with Georgian labour ministry in order to improve the labour code and restore a labour inspection agency. Whereas, EU stressed the situation in its *Progress report of Implementation of the European Neighbourhood Policy* in 2007 in Georgia stating that, the Labour Code:

"falls short in addressing the obligations of the ILO Conventions on freedom of association, and on the right to organise and collective bargaining. Furthermore, the labour code contradicts both EU standards and the European Social Charter that the country ratified in July 2005, on a number of fundamental issues such as the duration of

²⁰³ ITUC and ETUC, *A Roadmap for Georgia*, 2012, p. 1.

²⁰⁴ Interview: Reisner, O., EU Delegation to Georgia - Project Manager, Tbilisi, November 2014.

²⁰⁵ In addition to the Committee of Experts on the Application of Conventions and Recommendations the ILO provide evaluation of conventions' implementation through the Committee on Freedom of Association.

²⁰⁶ ITUC and ETUC, *A Roadmap for Georgia*, 2012, p. 2.

²⁰⁷ Interview: Alexandria, G., GTUC Vice-President, Tbilisi, November 2014.

overtime work and termination of employment. The Code is to be revised accordingly if Georgia wants to benefit from the GSP+ scheme in 2009”²⁰⁸

The increasing international awareness of systemic violations of workers' rights in Georgia scratched out the branded image of post-Rose Revolution reforms. The consistent concerns expressed by the EU were based on the very foundations of the EU-Georgia bilateral relations. Indeed, since 2006, the EU-Georgia Action Plan considered respecting the European Social Charter and ILO's core conventions as the basic conditions for the bilateral cooperation. Even the trade regime used by the two entities, GSP first and GSP+ later, demanded compliance with ILO's main conventions.²⁰⁹ The international pressures seemed to be consistently asking for a change of the labour legislation. The Georgian government expressed therefore the willingness to implement a process of social partnership with the GTUC and the Georgian Employers' Association (GEA). With the mediation of ILO's experts, a tripartite group drafted the *Social Partnership Agreement* which was signed by highest-ranking representatives of the GTUC, GEA and the Ministry of Health, Labour and Social Affairs of Georgia, in December 2008.²¹⁰

The commission introduced by the *Social Partnership Agreement*, was the very first case of an institutionalized tripartite social dialogue in Georgia, at national level. The *Social Partnership Agreement*²¹¹ established that the commission would have met biweekly with mandate to issue recommendations. The commission's decisions had binding effect for the partners and had to be considered by the government in its decision-making process. Topics covered by the commission's activities were aimed at bringing progress in labour code amendment, freedom of association and collective bargaining protection. Furthermore, the tripartite commission established to pursue an expanded cooperation with ILO to ensure decent work and living conditions. Other aims of the commission were the promotion of social dialogue at regional and sectoral levels, the reform of pension and of the unemployment insurance systems and the protection of occupational safety and health.

While international organizations such as ILO and EU were advocating the modification of the Labour Code, the Georgian government was able to provide only a semi-institutionalized commission for social dialogue. Nevertheless, such a development could be perceived as a first

²⁰⁸ European Commission, 'Implementation of the European Neighbourhood Policy in 2007' - Progress Report Georgia, Brussels, April 2008. Available at: http://eeas.europa.eu/enp/pdf/pdf/progress2008/sec08_393_en.pdf. [Accessed: 20/11/2014].

²⁰⁹ Tordinava, T. and Özbakkaloğlu, E., "Social Dialogue in Georgia and European Union, EU integration Issues" – Visegard Countries and the South Caucasus, Caucasian Institute for Economic and Social Research, Tbilisi, 2013, pp. 23-43, 27-29.

²¹⁰ Beltadze, P. "Status of the Social Dialogue in Georgia", in: *Eastern Partnership and Convergence with EU Policies in Georgia*, GFSIS and FES, Tbilisi, 2012, pp. 63-90, 65.

²¹¹ Find the text of Agreement in: Branco, C., E., *ENPI 08-14 Black Sea Labour Market Reviews: Georgia Country Report*, Torino: European Training Foundation, 2010, Annex 1.

step toward a new paradigm of labour relations. This was indeed enough to achieve the extension of GSP+ trade regime with EU as expressed in the Implementation of ENP's implementation Report of 2008.²¹² However, throughout 2009, the GTUC on one side and Government and employers' organization on the other side showed different, polarized and incompatible positions, in all the tripartite commission's meetings. Clearly, the discussion for the Labour Code's amendment was the most prominent and divisive issue, because government and employers were reluctant to the amendments advocated by the GTUC and other international actors. It became almost immediately clear that the tripartism per se did not mean an automatic shift towards partnership and cooperation. On the contrary, as Muskhelishvili²¹³ argues, if the GTUC and international actors were seriously committed to bring an improvement of workers' rights protection in the country, government and business were simply reacting to these pressures without showing an attitude toward compromise.

However, the tripartite commission initially seemed to agree on a project of changes of the Labour Code and only later, as Beltadze²¹⁴ points out, the government decided to reject the draft, apparently because of the strong pressure of big business lobbies. Given the inability to reach another agreement on the labour legislation amendment process, social partners decided to proceed putting aside the divisive topic of an immediate modification of the code. Thus, a tripartite working group was created in order to draft the charter of a more institutionalized tripartite commission. The charter was finally ratified by Prime Minister's Decree on March 2010 and the members had their first official meeting in May. Once more, since the very first session, the parties showed persistent disagreement on the agenda of the future meetings. On the one hand, the government required the GTUC to stop appealing to international organizations for the violations of workers' rights in order to discuss those cases in the national tripartite commission. On the other hand, the GTUC refused to withdraw the complains, arguing reasonably that the tripartite commission could not give enough guarantees that these cases would have been treated with an effective and positive new approach and workers' rights would have been protected.²¹⁵

As Muskhelishvili describes the subsequent tripartite meetings, they "*soon looked like senseless repetition of already declared positions*"²¹⁶ and with time became less and less frequent. By the end of 2010, the GTUC had been complaining that the process was frozen, while in the first half

²¹² European Commission, 'Implementation of the European Neighbourhood Policy in 2008' - Progress Report Georgia, Brussels, April 2009. Available at: http://eeas.europa.eu/enp/pdf/pdf/progress2009/sec09_513_en.pdf. [Accessed: 21/11/2014].

²¹³ Muskhelishvili, *Social Dialogue in Georgia*, p.13.

²¹⁴ Beltadze, P. "Status of the Social Dialogue in Georgia", p.65.

²¹⁵ *Ibid.*, p.67.

²¹⁶ Muskhelishvili, *Social Dialogue in Georgia*, p.19.

of 2011, no meeting was held.²¹⁷ Beltadze observes that, later in that same year, on the one hand, the activities of the commission became more systematic and dedicated tripartite working groups were created to deal with specific enterprise-level disputes. On the other hand, the cases discussed, never led to positive resolutions of the issues discussed.²¹⁸

At the end of 2010, the Georgian Parliament passed a new Labour Code. Despite the international organizations' recommendations and the discussions in the tripartite commission, the new law was approved in a completely unchanged form. The only change was that the new code had the status of organic law, hierarchically higher than the previous one. The parliament thus gave an increased hierarchic status to the same unfair and discriminatory law, increasing altogether the risk of violation of workers' rights²¹⁹ while making future amendments more difficult. At the same time, the general tensions between the government and the GTUC seemed to increase, leading to growing governmental reprisals against members of the unions. Indeed, both as employer in public companies and using police actions against unionists, the government deteriorated the feeble initial trust built among partners. As Muskhelishvili argues,²²⁰ while the authoritarian tendencies of the ruling elites intensified, the GTUC, with international support and a growing social basis, represented the only potential and organized challenge to the economic policy of the government. This certainly, increased tensions, harassment and discrimination against unionists in the country.

The employers' organizations, members of the tripartite commission, arguably played only a marginal role during this period. The most structured Georgian business association then and now is the GEA. It represents mostly medium-size enterprises and it is part of the International Organization of Employers while being recognized by ILO. The GEA expressed interest for social dialogue in order to gain an advisory role in policymaking regarding broader economic and social matters. Moreover, all the business' associations shared the government's positions when in the beginning of the tripartite activities, the GTUC was asked to stop appealing to international institutions for stopping the violations of ratified conventions.

The representational monopoly of GEA was challenged since 2009 and 2010 when two new influential employers' association were founded.

The first, the Business Association of Georgia (BAG) represented the main big local companies. It gained one seat in the tripartite commission²²¹ and had close ties with the government. As

²¹⁷ *Ibid.*, p. 20.

²¹⁸ Beltadze, P. "Status of the Social Dialogue in Georgia", p.67.

²¹⁹ Narmania, D. et al, *Eastern Partnership and Socio-Economic Policy of Georgia*, CIESR, CEPR and OSGF, Tbilisi 2011, p.23.

²²⁰ Muskhelishvili, *Social Dialogue in Georgia*, p.14, p.20.

²²¹ Five seats in total were assigned to the employers. Three of them were assigned to the GEA.

Muskhelishvili²²² sums up, the BAG's aim in the tripartite commission was to keep unmodified the Labour Code as long as possible. The second, the Georgian Small and Medium Enterprise Association (GSMEA) became member of the tripartite commission, only after the new labour code entered into force in 2013 and a new social partnership commission started its activities in 2014. Business organizations proved to have different degree of openness and inclination towards partnership.

Moreover, it is noteworthy that certain cases of social dialogue at enterprise-level occurred and delivered positive results in that same period. Nevertheless, national-level business organizations lacked of representativeness because they were unable to organize the small local business and the foreign big enterprises. The first are still uninfluential in the policymaking process, while the second preferred not to get involved in the activities of social dialogue, keeping arguably a privileged direct lobbying power on the government.

Finally, it is fair to say that the almost two years of social dialogue under Saakashvili delivered absolutely no results.²²³ Despite the international pressures and the apparent initial commitment of stakeholders, the social dialogue commission proved to be a tool for the Georgian government to mitigate international criticism and delay the effective modification of the labour legislation. Still in the 2010 Country Progress Report for the implementation of the European Neighbourhood Policy in Georgia, the European Commission noted that despite the establishment of a tripartite social dialogue, the Labour Code's amendment was still needed and consistent violations of workers' rights were again putting at risk Georgia's continuing inclusion in the GSP+ trade regime with EU.²²⁴ In addition, ILO constant monitoring of labour relations in Georgia provided more bitter observations. The Committee of Experts, on the Application of Conventions and Recommendations, kept reporting the noncompliance of the Labour Code with the conventions and the occurrence of systemic violations of trade unions' rights. In response to ILO's committee reports, the Georgian government repeatedly announced that the amending process was delegated to the tripartite commission's talks. Nevertheless, in the observation adopted in 2012 on the compliance with the Right to Organize and Collective Bargaining Convention, the committee notes with concern that the tripartite commission "*remains to be*

²²² Muskhelishvili, *Social Dialogue in Georgia*, p.33.

²²³ A partial exception occurred in the education sectorial level. The creation of the *national professional council for partnership* in the sector of professional education indeed, can be considered one of the most advanced results of this first experience of Georgian tripartism. The national tripartite council included Unions, Employers and Government and among other purposes, it aimed to develop a new educational program able to match the educational outcomes with the skills' demand of labour market. However, the programme could deliver only partial results, mostly because of low level of partnership at regional and local level (in Beltadze, "Status of the Social Dialogue in Georgia", p.68).

²²⁴ European Commission, 'Implementation of the European Neighbourhood Policy in 2010' - Progress Report Georgia, Brussels, May 2011. Available at: http://eeas.europa.eu/enp/pdf/pdf/progress2011/sec_11_649_en.pdf. [Accessed: 20/11/2014].

very ineffective and that over two-and-a-half years of its existence, this body has not solved one single issue and not one of its decisions and recommendations has been acted upon”.²²⁵

Clearly, Georgian government’s promotion of social dialogue was not a genuine attempt to create a solid partnership among interest groups in society. This was not an endeavour to strengthen and legitimate autonomous social partners with which sharing the burden of incoming reforms and nor was it a try to reinforce unions which underwent a courageous internal revolution, moving away from the soviet legacies and finally committed to play a constructive role in a modern market economy. Certainly, tripartism was not perceived as the incorporation of social partners in the policy-making process. Instead, it was an attempt to seek international acquiescence in front of the systemic violations of international standards in order to keep the same level of deregulation, without renouncing to the long-term project of European convergence. As Khuntsaria reports, even in 2012 the Georgian chief negotiator for a Deep and Comprehensive Free Trade Area with EU, which will lead Georgia to implement the great part of *acquis communautaire* in the upcoming years, defined the Labour Code as “*good, comprehensible and flexible – of the type Georgia needs at this stage of development*”.²²⁶ As Muskhelishvili also notes, the government did not have any particular idea of the future role of trade unions in the development of the country. And, despite the unambiguous criticism of all the international observers in the domain of labour rights, the ruling elite seemed convinced that the Labour Code was in compliance with international standards.²²⁷ For this reason, social dialogue was perceived by the government as a forum for a minimum exchange of information in the best of cases. The neoliberal path of development was never really questioned and an increase of effective endeavours to create a more inclusive growth was never really considered. The incorporation of social partners through an institutionalized process of policy-making power sharing has apparently never been an option for the Georgian ruling leadership.

Thus tripartism became in the long run a mere talking-exercise. It was created thanks to the GTUC’s ability to arise international pressures on the government for its legislations and measures which endangered the protection of internationally recognized workers’ and unions’ rights. anti-workers legislation. As a consequence, the government accepted the dialogue but only until this could not really question the pre-decided developmental path. Therefore, the social dialogue commission remained an *inertial tripartism*, which served the government’s aim to mitigate international pressure through the creation of a façade institution without any

²²⁵ Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) - Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3080036. [Accessed: 20/11/2014].

²²⁶ Interview with Tamar Kovziridze reported in Khuntsaria, T., *Prospect of Deep and Comprehensive Free Trade Area...p. 7*.

²²⁷ Muskhelishvili, *Social Dialogue in Georgia*, p.36.

perspective to deliver any result. The inertial tripartism did not attempt to make a change, or build consensus for transformational reforms. Indeed in Georgia, the economic transition was already completed according to the government's perspective and the social dialogue process could therefore, be easily described as the result of the “*fetishism of process over outcome's*” effect.²²⁸ Consequently, the official presence of a social partnership procedure and the mere existence of a tripartite institution were considered as sufficient concessions to any form of coordinated market economy.

Instead, the inertial tripartism consolidated the ties between government and business, around the partially common objective to maintain the organized labour marginal and to protect the *status quo* without giving away the European choice.

The end of Rose Revolution: a new socio-economic course?

A growing authoritarian attitude, not exclusively against the labour movement, accompanied the last months of the Saakashvili's legislation, arguably provoking a decline in the popular support for the ruling elite.

The competitor coalition, Georgian Dream (GD), led by the billionaire Bidzina Ivanishvili managed to win the parliamentary election in 2012. The new government, started several reforms in a tense political cohabitation with President Saakashvili still in office. In 2013, the GD coalition's candidate won the presidential elections thus completing the transfer of political power and bringing the United National Movement fully to the opposition. The ruling GD coalition is a multifaceted group of different parties with contrasting ideological visions, including both the Social Democratic and the Republican Party, among others. Nevertheless, even after the retirement from the Prime Minister post of the leader of the coalition Ivanishvili, substituted by Irakli Garibashvili, the GD coalition is still in power. The recent dismissal of the popular Defence Minister Alasania, leader of the Free Democrats Party was followed by further resignations of other two Free Democrats' ministries and led the Free Democrats Party to quit the coalition. Consequently, the government underwent a reshuffle²²⁹ and it still holds a weak parliamentary majority while this paper is being written, despite internal divisions.

At the end of 2012, in the aftermath of parliamentary elections, trade unions reacted with a renewed activism, increasing strikes against abusive employers' practices and organizing street

²²⁸Hyman, R., “Social dialogue and industrial relations during the economic crisis: Innovative practices or business as usual?”, Industrial and Employment Relations Department - DIALOGUE, International Labour Office, Geneva: ILO, 2010.

²²⁹ Cecire, M., A new political Era for Georgia?. Available at: <https://medium.com/@mhikaric/a-new-political-era-for-georgia-11b63a6e8f96>. [Accessed: 21/11/2014].

demonstrations.²³⁰ Since the very beginning, as the GTUC's representative confirmed, the government stopped the inhibition of unions' activities with the use of police forces.²³¹ In the following months, the government proceeded with the draft of a new labour code. The process took several months and was delegated to the Ministry of Justice, which included trade unions and business associations multiple times throughout discussions and also worked in cooperation with ILO's experts.²³² Despite the participative method used during the six-month law making process, relevant representatives of business expressed concerns for the final draft of the code. Namely, the *American Chamber of Commerce in Georgia* and the *International Chamber of Commerce of Georgia* – representative of medium and big, local and foreigner companies working in the country – expressed dissatisfaction about a number of legal rigidities²³³ in the regulation of employment relations. Nevertheless, the European Commission defined the new Labour Code as in line with ILO's conventions and encouraged the Georgian government to develop the “*necessary secondary legislation*” to practically implement the code, ensuring safety at work, developing social dialogue and establishing a dispute resolution mechanism.

Consequently, the European Commission welcomed the initiative of Georgian Ministry of Labour, Health and Social Affairs to draft a new law regarding occupational safety and health and the restoration of a Labour Inspection Agency.²³⁴ Simultaneously, the Ministry was integrated with an Employment Policy Department. The department has been working on the draft of the two mentioned laws, together with the implementation of an employment strategy to improve services for job seekers and to support temporary labour migration. The department received direct support from EU, ILO and US Labour Department in order to improve labour legislation as a whole and institutionalize a labour inspection mechanism.²³⁵

The new Labour Code²³⁶ provides a balanced approach to the regulation of employment relations. It establishes a more effective antidiscrimination protection of employees, restrictions

²³⁰ As the data collected by GTUC's statistics department confirm, the number strikes' days in 2012 and 2013 were significantly higher than in previous years. See also: ITUC, “Countries at risk: 2013 Report on Violations of Trade Union Rights”, p.31.

²³¹ Interview: Dolaberidze, T., president of Georgia's Metallurgy, Mining and Chemical Worker's Trade Union, Tbilisi, October 2014.

²³² Civil.ge, Labor Code Amendments Passed with First Reading. Available at: <http://www.civil.ge/eng/article.php?id=25974>. [Accessed: 21/11/2014].

²³³ Civil.ge, Business Groups Warn Against Some Provisions of Planned Labor Code Amendments. Available at: <http://www.civil.ge/eng/article.php?id=25955>. [Accessed: 21/11/2014].

²³⁴ European Commission, ‘Implementation of the European Neighbourhood Policy in 2013’ - Progress Report Georgia, Brussels, March 2014. Available at: http://eeas.europa.eu/enp/pdf/2014/country-reports/georgia_en.pdf. [Accessed: 20/11/2014].

²³⁵ Interview: Staff of Employment Policy Department, November, Tbilisi 2014.

²³⁶ Georgian labour code as amended and passed in April 2013 is available at ILO-NATLEX database: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88313/105780/F206389259/GEO88313.pdf>. [Accessed: 21/11/2014].

to the free firing principle, the ban of oral contracts and few limitations of the use of fixed-term contracts. It increases paid leaves and maternity leaves and it also includes a better regulation of collective bargaining and protection against anti-unions activities and strikes. In addition, it establishes a mediation role for the government in case of collective labour disputes. According to the new rules, the parties of the disputes can apply to the government for the appointment of a mediator in the conciliation procedure. The government on its own initiative can appoint the mediator as well, even without the request of the parties. Clearly, this sets the legal framework for a more committed role of the government in developing a social dialogue mechanism at enterprise-level. With the figure of the mediator, the new labour code introduced a structural element of company-level social partnership. In fact, the possibility to appoint a mediator and start a conciliator procedure with the government's initiative represents a structural tool to improve dialogue even in case of strong confrontational approaches of social partners.

Moreover, the increased protection of collective bargaining rights together with a stronger anti-discrimination regulation represented for the unions a crucial positive shift of the rules of the game, paving the way for improved and more balanced industrial relations. The Labour Code institutionalized also the *Tripartite Social Partnership Commission* (TSPC) chaired by the prime minister²³⁷ and aimed at promoting social partnership in the country and social dialogue between social partners and the government, while also having a mandate to formulate proposals and recommendations through consensus on labour and other related issues. Later on, in October 2013, the TSPC's statute was adopted by Prime Minister's Decree²³⁸. The first meeting of the new Tripartite Commission took place on May 1, 2014.

The first meeting of the new tripartite commission was introductory and symbolic. According to Gocha Alexandria,²³⁹ GTUC Vice President and member of the Commission, the workers' representative insisted for the discussion of the ongoing persecutions of union' leaders in the Georgian Railway and Georgian Post public companies. The unions reported systemic discriminations against their activists and the unwillingness of managements to start a procedure of collective bargaining. The social partners and the government agreed to create two separate

²³⁷ The commissions consists of 18 members (six for each part) plus the chairman. For the government, Ministry of Labour, Ministry of Justice, Ministry of Economy, Ministry of Regional Development and Ministry of Education take part to the meetings. Other members are appointed by the Prime Minister.

²³⁸ Beside the chairperson and the six seats assigned to the government, the employers are represented by the Georgian Employers' Association which occupies 2 seats and by the Georgian Small and Medium Businesses Association, the Industrial Women's Association, the Association of Development and Support of Microfinance Organizations of Georgia and the Federation of Georgian Hotels and Restaurants which have respectively 1 seat each. For the trade unions, GTUC President and Vice President have two seats in the commission. Furthermore, the respective presidents of the Ajarian Trade Unions, the Education and Science Workers Free Trade Union, the Public Servants Trade Union of Georgia and the Metallurgy, Mining and Chemical Worker's Trade Union, all member of the GTUC, have one seat each.

²³⁹ Interview: Alexandria, G., GTUC Vice President, Tbilisi, November 2014.

tripartite working groups to address the persistent violations of unionists' rights and avoid the increasing of conflicting industrial relations. Moreover, in the first meeting, the government announced that a draft for the creation of labour inspection would have been ready until September 2014. Since then the tripartite commission has still not been convened, despite the statute establishing that four sessions have to be held annually.

Moreover, as GTUC Vice President noted, the tripartite working groups created to stop the anti-union activities of railway and postal service managements, did not deliver any results.²⁴⁰ Concerning the government's mediation role in labour disputes provided by the new code, the mediation mechanism has been used twice so far, and in both cases unofficially, appointing the mediators formally as special representatives of the Ministry of Labour. Indeed, eight mediators have been trained by the Ministry of Labour in cooperation with ILO, but they still need to be approved by the tripartite commission which has not been convened yet²⁴¹. For this reason the adoption of the mediation mechanism acquired an unofficial guise. In the first case, the mediator was appointed for the labour dispute that arose in the mining company of Kazreti in February 2014.²⁴² The mediator/special representative succeeded in moving the conflict toward dialogue and led to an agreement between management and unions. In that situation, the mediator operated with the direct support of an ILO's expert in the conciliation process. Recently, the dispute regarding Georgian Railway, after the request of the GTUC, induced the Ministry of Labour to appoint²⁴³ for the second time the mediator that will operate still as a special representative of the ministry. While this paper is being written, the conciliation process is in its earliest stages and it is too soon to assess the effectiveness of mediator's agency.

Despite governmental inertia in convening a new meeting of the tripartite commission, social partners at the national level have moved forward in bipartite relations. In September 2014, they signed a memorandum of understanding, the *Social Contract*, which consisted in a joint declaration aimed at expressing their willingness to strengthen bipartite relations and create a structural bipartite dialogue in order to prepare more effectively the discussions in the tripartite commission. The *Social Contract* was signed by GTUC, GEA and GSMEA and represented a good example of partnership in moving forward the social dialogue in absence of active governmental participation. Nevertheless, it should be regarded as a non-binding joint declaration of intentions, which will have no effects without a future structured endeavour of stakeholders in making the dialogue more concrete.

²⁴⁰ Interview: Alexandria, GTUC Vice President.

²⁴¹ Interview: Staff of Employment Policy Department, November, Tbilisi 2014.

²⁴² DF Watch, "Negotiations in Kazreti, the Georgian village on strike". Available at: <http://dfwatch.net/negotiations-in-kazreti-the-georgian-village-on-strike-50330>. [Accessed: 21/11/2014].

²⁴³ GTUC website, "Ministry of Labor has appointed a mediator for the labor dispute between the trade union and the administration of Georgian Railway". Available at: <http://gtuc.ge/eng/?p=1036>. [Accessed: 21/11/2014].

From the employers' side, both the GSMEA and the GEA share the wish to discuss in the tripartite dialogue some general and broad issues regarding social and labour policy at large. They want to be involved in the policy-making regarding social policies of welfare, employment and education apart from the particular labour disputes. However, the GSMEA showed a more flexible stance than the GEA. The GSMEA²⁴⁴ considers the new Labour Code balanced and not harmful for business. Nevertheless, it pursues to obtain through tripartite dialogue a more flexible application of the norms to the small enterprises, mostly concerning the fixed-term contracts regulation. Despite this, the association seems to be ready and favourable to discuss with unions about the implementation of workplace's safety regulation. On the other hand, it expresses preference for a labour inspection system that, at least in the earlier period, will monitor only the companies' compliance with occupational safety rules. This will be a possible divisive issue in the debate with the GTUC which is standing for an inspection mechanism enforcing the full implementation of the Labour Code's provisions and not only the occupational safety. Moreover, the GSMEA expressed satisfaction for the relations with the government and all its ministers. It declares to have been involved during the draft of labour code and to have fruitful contacts with the Ministry of Economy as well as with the Ministry of Labour.

On the contrary, the GEA showed a more contentious position.²⁴⁵ The association complains lack of sufficient involvement in the draft of the Labour Code and lack of government responsiveness in general, concerning labour and education ministries. The employers stated to have fruitful relation with the Ministry of Economy only, which recognizes their role as advisor and legitimate representative of business. On the contrary, they claim the other two ministries as have an anti-business biased approach. The association complains about being involved only in the final stage of policy-making when its potential contribution becomes already marginal. The employers oppose the mediation role of the government which was introduced in the new Labour Code. They claim that - considering the general governmental approach that they perceived as anti-business biased or not enough competent - the mediation will be an instrument against the free entrepreneurship. Finally, they consider that a reinforced attention to the protection of unions' activities should be mostly concentrated in public companies, which generally, they admit, have anti-unions attitudes. On the other hand, creating a strong dialogue with unions in the private sector has a marginal importance for the GEA. The association argues that in the private sectors, competition and human resource departments play already a role in motivating workers and accommodating workers' demands. Indeed, it seems that the GEA perceives the low unionization rate in the private sector as a proof of the futility of unions' activity in the companies it represents. Consequently, for this association, the dialogue with

²⁴⁴ Interview: Kokhraidze, K., outgoing GSMEA President – CEO, Tbilisi, November 2014.

²⁴⁵ Interview: Kordzakhia, M., GEA Vice President, Tbilisi, November 2014.

trade unions in the tripartite commission has much less importance than the possibility to influence public policy at large.

The GTUC's main priorities²⁴⁶ to be discussed in the tripartite commission regard local cases where employers are incompliant with the law and collective agreements, as well as other general issues related to the labour legislation. Here the GTUC reports the presence of *yellow trade unions*, under the direct influence of employers. These cases do not concern only public sector companies, but rather show that despite the change of the Labour Code, in absence of an inspection body, industrial relations rely still on the employers' attitudes towards involvement in social dialogue. Unlike the employers, the GTUC expresses its wish to discuss issues related to industrial relations more than those related to general social policy matters. The GTUC considers as priorities to be discussed in the commission the quick adoption of the laws on labour inspection and occupational safety and health. Unions require, in line with ILO and EU observations, the fast restoring of the inspectorate, and ask that the monitoring agency should have competence in monitoring the compliance of companies with all the Labour Code's norms and not only with the work safety regulation. Moreover, the unions require a further amendment to the Labour Code in regard to women workers' rights and *workers with family responsibilities*' rights. In this regard, they ask for an increased protection against discriminations of women and for higher maternity leave payments. Consequently, they require to ratify and implement the *ILO Workers with Family Responsibilities Convention*, of 1981 (No. 156), or to legislate following the convention's spirit.

The appointment of the mediators, the discussion of the laws regarding occupational safety, health protection as well as the establishment of the Labour Inspection Agency²⁴⁷ remain the most divisive issues to be debated, which nevertheless are crucial to complete the revision process of the Georgian labour legislation, as required by international standards. Whether actors will cope with these challenges and the tripartism will be a useful tool to build consensus, or again, a forum where increased conflicts and divisions are triggered has yet to be seen.

Despite the change of the code and a complete turn in the approach to social partners, the government fell short in effectively improving the social dialogue at all levels. The previous inertial tripartism was a façade to appease international pressures while keeping the *status quo*. So far, the new government has indeed showed a new narrative and approach but the same inertia in developing the dialogue. The upcoming months will show if tripartism in Georgia will still be an inertial façade or the beginning of an organized and inclusive corporatist capitalism.

²⁴⁶ Interview: Alexandria, G., GTUC Vice President, Tbilisi, November 2014.

²⁴⁷ These two laws have been already drafted by the Employment Policy Department of the Ministry of Labour in cooperation with ILO. (Interview: staff of Employment Policy Department, November, Tbilisi 2014)

Final remarks

Although the new Georgian government showed a friendly approach towards the labour movement, it nevertheless seemed inertial in developing a proper social dialogue and in implementing the new Labour Code. When, during the interview, I asked the reasons for this inactivity to Mr Alexandria, the GTUC Vice President, he explained that according to his personal opinion, part of the government is still willing to delay the reform of labour relations in the country as long as possible. This opinion was partially confirmed by Muskhelishvili²⁴⁸. The scholar argued that the majority of the parliament and members of the government are actually divided along different perceptions on the developmental paradigms that have to be applied in the country. On the one hand, more social democratic ideas inspire part of the ruling coalition; on the other hand, a remarkable part of the same coalition shares the neoliberal and libertarian vision of the previous governing elite. The first group is trying to comply with the standards of EU regulations, while the other attempts to delay a process that with the signing of the Association Agreement cannot be avoided any longer. Once again, the spread perception that European standards of regulation and protected labour rights will slow down foreign investments inflows and the overall economic growth of the country opposes the adoption of an increasing number of EU regulations as established by the Association Agreement and DCTFA.

The implementation of the *aquis communautaire* will need undoubtedly a long and challenging process of reform. Nevertheless, the Georgian government did not yet clarify the strategy of development it wants to pursue. Once again, apparently, the approximation with the European social model came at odds with the agenda of Georgian neoliberals. But, this time the government is not as compact as the previous and the pluralism inside the governing coalition as well as in the overall external political landscape, leads to contradictions and temporary, changing and competing balances of powers.

In addition to an apparently divided government, social partners have structural weaknesses, which undermine the persistence of a fruitful social dialogue. On the one hand, employers' associations, with the remarkable exception of the GSMEA, did not welcome the new labour legislation. They oppose the mediation mechanism and the institutionalization of a labour inspection agency, showing therefore resistance toward the most crucial elements needed to practically implement the new Labour Code.

In addition, the employers' associations, members of the tripartite commission, have not succeeded to organize the great majority of small businesses in the country. These therefore,

²⁴⁸ Interview: Muskhelishvili, M., Researcher, Tbilisi, November 2014.

remain excluded from every kind of corporatist representation. Moreover, a consistent part of big businesses is not included directly in the tripartite social dialogue. Indeed, the GEA signed a memorandum with the other major medium and big businesses' organizations, in which the parties agree that the GEA will represent others in the tripartite commission. Nevertheless, the main business' organizations remained influential and preferred to exert their lobbying capacity directly to the government, out from the tripartite dialogue institution, thus showing scarce willingness to engage an institutionalized dialogue together with unions.

On the other hand, the GTUC represents only a little percentage of workers, with high concentration in certain sectors more than in others. High rates of unemployed and self-employed in the agricultural sector make large portion of potential workforce incapable of getting involved in the unions' activities.

In the private sectors and in big public companies, after the hard times under Saakashvili, it results difficult to unionize workers, as the workers are generally unwilling to get directly involved. With the previous Labour Code the dismissals of the workers who created unions in the enterprises were a wide spread practice. With the change of the Labour Code, the risk of unfair dismissals is lower. Nevertheless, workers are still reluctant to join unions' activity. In addition, the GTUC representatives report the presence of yellow trade unions backed by the employers. This creates a dilution of the perceived importance of union's membership among the workers. In this regard, the restoring of the Labour Inspection Agency and an effective implementation of the norms of new Labour Code will presumably reduce the "fear" of non-unionized workers. Also, the use of mediation mechanism in collective disputes will arguably increase the perceived benefits of joining independent trade unions. Therefore, the further implementation of the Labour Code will probably strengthen the unions' position, especially if labour inspection and mediators will be institutionalized in line with ILO's suggestions.

It is widely acknowledged that the role of the labour movement in Georgia's transition has been so far, indeed marginal. In the first stage of *democratization*²⁴⁹ during Shevardnadze's period, the unions were unable to cope with the collapse of the soviet regime. Therefore, they focussed resources and efforts to keep the inherited properties and privileges for the sake of leaders' interests more than for the rank-and-file members that at the time were dramatically decreasing.

In the second stage, after the Rose Revolution, the internal transformation of trade unions occurred together with a determinate *capital-friendly* political course which actually threatened the same existence of unionism in the country. In such a hostile environment the trade unions

²⁴⁹ We use here the division Muskhelishvili creates in describing the post-soviet Georgia's transition. She recognizes a first stage of *democratization* (from independence until Rose revolution) and a second stage of declarative *convergence with EU* (after the Rose Revolution). In: Muskhelishvili, *Social Dialogue in Georgia*, p. 6.

sought the support of international actors and succeeded in increasing external pressures on the government's noncompliance with international labour standards. Nevertheless, the United National Movement consistently resisted in increasing protections for workers' rights and refused to develop a dialogue with unions. The inertial tripartism was initiated to accommodate the external pressures and to keep the path of a declarative European convergence alive while pursuing the marginalization of labour, in line with the Rose Revolution's libertarian course. Georgian tripartism, at odds with the experience in the CEE countries, did not lead to an increased labour weakness, incorporating it in a polity pursuing neoliberal transformation. On the contrary, labour did not provide its acquiescence and tripartism triggered an open conflict between the government and trade unions, moving visibly closer the positions and interests of governmental elites and business organizations.

Consequently, unionism seemed to represent in these years the main organized social opposition to a growing authoritarian and unpopular government. The paper therefore argues that the Georgian inertial tripartism even without bringing any result - or perhaps exactly because of this reason - reinforced the Georgian unions, picturing them as the only adversarial, independent and progressive structured groups in the society. The confrontation with the government led the unions to take the lead of the social opposition to the unpopular political elite, obtaining the support of a bigger portion of society. In line with Ost's assumption,²⁵⁰ concluding that labour movements in post-communist countries have advantages if mobilized against economic liberals and not together with them, Georgian trade unionism managed to survive in its hardest time, resisting the governmental rule and building an important international network and a little but solid internal support.

On the other hand, trade unions need to consolidate and enlarge their internal base. Moreover, a possible progressive alliance with political parties seems to be unrealistic at the moment: firstly, because truly social democratic political forces are still a minority and Georgian political landscape seems to be highly polarized along *personalisms* and not at all along socio-economic class cleavages; secondly, because the GTUC seems preferring to consolidate its social base before pursuing a major direct political involvement. Nevertheless, an effective social dialogue with strong and independent social partners can play a crucial role in making the Georgian development more plural and inclusive, committed to tackle effectively unemployment and inequality.

Until the very last months of Saakashvili's period, the ruling elite did not stop questioning the desirability of adopting the European social model of a regulated social market economy. And certainly, their claims were reasonable. Indeed, at first with the *competitive corporatism* and then with the *negotiated responses* to the 2008 financial crisis, the EU underwent a process of

²⁵⁰ Ost, *The Defeat of Solidarity*, p. 119.

flexibilization of labour along with a general deregulation while the EU-Georgia convergence seemed to be leading to a sort of halfway meeting between the old Keynesian social Europe and the libertarian Georgian-Singaporean model. And indeed, the paper also looked at how the European model itself presented multifaceted and different practices of social partnership. At the European level, the European Commission reduced its commitment to support the legislative functions of social partners' agreements, leading to a great number of bipartite acts with limited impact on real industrial relations. At national level, the 2008 financial crises seemingly brought a new wave of tripartite concertation in the EU member states, which delivered the increased flexibilization of labour market and the disorganized decentralization of bargaining systems at the expense of workers' protection and trade unions' strength. Social dialogue, proved to be constantly changing, adapting to new conditions, actors' structures and challenges. And in some cases, tripartite dialogue proved to be even a tool to achieve the weakening of labour movements, leading workers to channel their anger along identity-based and illiberal cleavages, as happened in certain countries of CEE.

Nevertheless, this was not the case in Georgia. The *inertial tripartism* did not achieve any results except for the moderate strengthening of Georgian trade unions in their hardest times. The role of EU as a reference of long-term development, the constant support of ILO and the presence of ETUC and ITUC represented for many years the main and perhaps the only allies of the Georgian labour. They have indeed significantly supported the Georgian unionism and created the conditions for its survival when trade unions in the country seriously risked disappearance. However, this external influence will clearly not be enough to lead the future of organized interests in Georgia in a neo-corporatist direction. The GTUC itself seems in need to complete its transformation and consolidate its roots in the country. On the other hand, the government needs to clarify which paradigm of development it is willing to pursue and the employers have to face the existence of a growing and organized unionism. Further integration with the competitive EU markets, as result of the DCFTA, will arguably lead the Georgian businesses to seek ways of increasing competitiveness. The available choices at this point are cooperation or confrontation with their workers. Their choice will be affected by the strength of unions and the approach of the government while simultaneously shaping the future development of the Georgia. Tripartite social partnership, once again, becomes crucial.

A tripartite corporatist cooperation can have positive spill-over effects in the political landscape at large, if it succeeds in creating good examples of a successful culture of dialogue in labour relations. Stronger representation of capital and labour would arguably lead to political discourses that are more visibly organized along class-cleavages and socio-economic conflicts. Consequently, this process may potentially support the consolidation of an inclusive liberal democracy in a political landscape where identity-based cleavages and exclusionary political discourses are nowadays still pervasive. Here there is the chance for the promotion of a more

equal development model, where the political elite considers the reduction of poverty and unemployment as targets of their agenda and where the European choice, despite the changing shape of European corporatism itself, returns meaningful. A failure in tripartism, on the contrary, will presumably lead to more conflict and confrontation in industrial relations. Weak social partners will make way for identity-based cleavages and economic anger will be organized more and more along illiberal discourses. Consequently, the liberal democracy still in the making will arguably be weakened, in a process where the social and economic antagonism adds to an already confrontational political environment.

Against this background, the development path would presumably follow the balance of power between capital and labour in society. Arguably, this implies undermining the European choice, or perhaps even worse, completing the Georgian integration in the European markets through an increased competitiveness that is prior reached on the expenses of workers' rights and salaries. Nowadays, Georgia still stands in between these two alternatives.

Baccaro and Simone²⁵¹ argue that policy concertation increases when government and social partners are weak. A coalition of weak actors is a possible scenario for Georgia. The upcoming reforms expected as a result of the Association Agreement, will be indeed better implemented if tripartite dialogue will successfully build consensus and cooperation among government and organized societal interests' groups. Furthermore, a more structured unionism, with a more committed leadership and stronger international ties can play a crucial role in obstructing or supporting future governmental policies. Social dialogue in Georgia thus, appears to acquire a decisive instrumental function: indeed policies would work better if social partners are also involved and the increased integration of markets with EU could even encourage Georgian economic actors to seek competitive coalitions following the model of European competitive corporatism. Moreover, the expressive function of social dialogue can play a role in moving the political competition away from populist and identity-based conflicts toward class-cleavages, inclusive and liberal, socio-economic discourses. In other words, Georgian tripartism can achieve its *transformative functions* without weakening the labour, as happened in the case of the CEE's *illusory* corporatisms.

Nonetheless, social dialogue in Georgia has not led to significant results in changing the overall system of industrial relations so far. Therefore, a fast improvement of such practice cannot be taken for guaranteed.

²⁵¹ Baccaro, L. and Simoni, M., "Policy Concertation in Europe: Understanding Government Choice", *Comparative Political Studies*, 41: 10, 2008, pp. 1323-1348.

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