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## **How will the new member states from Central and Eastern Europe apply the Social Chapter and related EU legislation? The case of Poland**

(a rough draft !)

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### **Questions**

How will the new member states from Central and Eastern Europe apply the Social Chapter and related EU legislation? What is the effect of the communist legacy? How will the legislation be applied given the relative weakness of the civil society? Are the problems different for the applicant countries with well developed industrial sectors from those where the rural sector is still dominant? What impact will enlargement have on the policies themselves?

### **Negotiations**

Poland accepts and will implement in full the *acquis communautaire* in the area of 'Employment and social policy' by December 31<sup>st</sup>, 2002, and will not request any derogations or transition periods, with the exception of Council Directives 89/655/EEC and 89/656/EEC. In respect to those directives Poland, while accepting the minimum standards for the improvement of working conditions, and particularly of work environment, will request a transition period until December 31<sup>st</sup>, 2005. Until that date Poland will not have implemented provisions of those directives in regard to machinery in operation in businesses before December 31<sup>st</sup>, 2002. Furthermore, due to the fact that Poland will have to improve working conditions in workplaces where exposure of workers to biological agents occurs, Poland reserves the right to request a transition period in regard to Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC).<sup>1</sup>

Currently, the Polish law has been harmonised to a considerable extent with the *acquis communautaire* in this area. With exceptions mentioned above, Poland is prepared to implement the provisions of regulations, directives, decisions, recommendations, and resolutions and to participate in the Community action programs.

"Screening" of 29 chapters in Poland took place from mid 1998 till the end of 1999. Chapter on "Agriculture" was opened as the last one in June 2000.

Several sessions of multilateral screening in the field of "Social policy and employment" took place in October 20<sup>th</sup>-23<sup>th</sup>, 1998. Bilateral screening in this field for Poland was made in November (16<sup>th</sup>-19<sup>th</sup>) 1998. Social policy and employment includes different issues connected with the labour law and employment, social dialogue, equal treatment of men and women, fight against racism and xenophobia, European Social Fund, social insurance, elderly persons and social marginalisation, disabled persons, the Foundation of Dublin, public health, safety and hygiene at work.<sup>2</sup>

May 25<sup>th</sup>, 1999, Polish government received a position statement where it declared to introduce *acquis communautaire* entirely till December 31<sup>st</sup>, 2002.

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<sup>1</sup> See 'Poland's negotiation position in the area of employment and social policy' in: Agnieszka Drop and Tomasz Czystek (eds.), *Poland's position papers for the accession negotiations with the European Union* (Warsaw: Chancellery of the Prime Minister of the Republic of Poland. Government Plenipotentiary for Poland's Accession Negotiations to the European Union, 2000), pp. 303-313.

<sup>2</sup> Beata Zaborowska and Marcin Korolec, 'Organizacja i przebieg negocjacji akcesyjnych w dziedzinie polityki społecznej i zatrudnienia', in: Beata Zaborowska and Tomasz Czystek (eds.), *Polityka społeczna i zatrudnienie* (Warszawa: Kancelaria Prezesa Rady Ministrów, 2001), pp. 101-107.

The process of harmonisation and implementation of the Community law in the area of employment and social policy is well advanced in the all applicant countries (See the Chart 1.).

### **Labour law and employment. Free movement of persons. Migrations**

The Labour Code of June 26<sup>th</sup>, 1974, constitutes basic Polish legislation regulating employment relationships. An extensive revision of 1996 has basically approximated the Polish law with the *acquis communautaire* in this respect, however, full harmonisation required further amendments.

The Polish law has been harmonised with Council Directive 77/187/EEC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, through an amendment to the Act of May 23rd, 1991, on trade unions; with Council Directive 91/533/EEC on an employer's obligation to inform employees on the conditions applicable to the contract or employment relationship, through an amendment to the Labour Code; with Council Directive 97/81/EC on part-time work, through an amendment to the Labour Code and other relevant acts; and with Council Directive 93/104/EEC concerning certain aspects of the organisation of working time, through an amendment to the Labour Code.<sup>3</sup>

Polish legislation was also aligned with Council Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies by December 31st, 2002, through an amendment to the Act of 28 December 1989 on special conditions for the termination of employment due to reasons relating to employer and the Act of 14 December 1994 on employment and combating of unemployment.

By 31 December 2002, Poland has to align its legislation with: Council Directive 94/33/EC on the protection of young people at work, through an amendment to the Labour Code and adoption of a regulation on the scope and conditions of short-term and occasional work in households and family businesses; with Directive 96/71/EC of the European Parliament and of the Council on the posting of workers, through the adoption of a regulation on the conditions of employment of posted workers and through the lifting of the Resolution of the Council of Ministers of May 3rd, 1989, on the principles of compensation and other benefits for employees posted abroad (export of construction works and related services); the Resolution of the Council of Ministers of December 27<sup>th</sup>, 1974, on certain rights and duties of employees posted abroad (export of construction works and related services); with Council Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship, through an amendment to the Labour Code and the Act on employment and combating of unemployment; with Council Directive 94/45/EC on the establishment of European Works Councils or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, through the adoption of an act on European Works Councils.<sup>4</sup>

Polish legislation is in full compliance with Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.

According to a inquiry recently published by the PricewaterhouseCoopers 22% of Poles aged 16 and over are ready do leave their homeland to live and work in another European country in the next five years; 17% would probably do so. Germany is a preferred destination for 43% of Poles who would 'definitely' or 'probably' move to live and work in another country. USA are on the second place (36%), followed by Italy (22%), Canada and the UK (both 18%). 1% of Poles who would 'definitely' or 'probably' leave the country are classified as senior managers, and 11% as secretarial/clerical workers.

The data show that about 200,000 Poles was working legally in Germany every year in the past decade (see Table 4.).<sup>5</sup>

Estimated migration from Poland to the UE countries according to three scenarios (slow, constant, rapid economic growth in Poland) is supposed to be, respectively, of about 1.472.000, 711.000, or 380.000 of persons in total (see Table 5).

Generally, For further estimations on migration to the EU see Tables 2., 3., 4, and 5.

It is quite possible that the free movement of workers in the enlarged Europe will bring similar effects, like those in case of Poland in the after-war period.<sup>6</sup> Surprisingly, far bigger group of Poles left the country in 80s, when the borders were strictly closed (by the communist regime, but also by the Western countries), than in 90s, when the free movement of person to all European countries was introduced, and many Poles started travel a

<sup>3</sup> See Drop and Czeszek, Poland's position papers for the accession negotiations with the European Union, pp. 303.

<sup>4</sup> See *ibid.*, pp. 304-305. I am quoting here this enumeration nearly in extenso – K. M.

<sup>5</sup> For further estimations on migration to the EU see Tables 2 to 5.

<sup>6</sup> For the dynamic comparative study on the Polish migration see Teresa Iglicka, 'Migracje zagraniczne Polaków w drugiej połowie XX wieku', in: Andrzej Stepniak (ed.), *Swobodny przepływ pracowników w kontekście wejścia Polski do Unii Europejskiej* (Warszawa: UKIE, 2001), pp. 41-50.

new (See also Chart 2). This first wave of Polish migration (of 90s) was also far different than the last one. In the time of the ancient regime, for the reason of many administrative obstacles, it was much easier to leave the country for the better educated and comparatively well-situated persons, usually living from the big cities, than for the others, so the emigration of this time was a kind of brain-drain. Many of those who left the country, has made it for good. Instead, in 90s, when a lot of Polish “tourists” (migrants it the tourists visas) is working illegally in the EU or in America, large part of this group are the persons coming from the poorest regions of the country. Their “emigration” is usually temporal (they has to cross the border every tree months to make theirs visas valid), and even if working in the country of destination they remain by no mean competitive to the local workers.

(...)

### Social dialogue

Social dialog within the Polish society has a long and specific tradition. The official institutions of nowadays, as the ‘Komisja Trójstronna’ (Tree-Site Commission), are still perceived by the public opinion in the reference to the significant social events of the past, as the rise ‘Solidarity’ syndicate in 1980, and even further, to the old ‘golden freedom’, much venerated by the aristocracy and nobles of the renaissance Republic of Poland.

Presently, social dialog in Poland was much accelerated by the process of European integration itself. Public institutions, media, prominent persons, and ordinary citizens are intensely discussing the topics related to the accession to the European Union. This informal part of social dialog has sometimes quite unexpected results. For instance, the very recent visits of the higher Polish clergy to the European institutions (August 2001, February 2002) have been registered by the public opinion as an apparent support of the Polish church to the accession to the EU. What is unexpected, is that those few public events had greater influence on the public opinion than many previous allocutions and official statements of the Polish hierarchy. Being widely commented by media<sup>7</sup>, those visits have probably also increased the number of the pro-European Poles. In the mid February 2002 nearly tree out of four, in the group of the supposed participants in the future referendum, were ready to vote for joining the EU (See Chart 2.). It was a considerable change of attitudes within a mere month, for just in January 2002 only two out of tree of possible voters were definitely pro-European.<sup>8</sup>

Social dialog related to the process of the EU enlargement has its formal site also. There were hold, for instance, several meeting of the ‘Triangular Tables’, a permanent consultation platform founded by the Chief Negotiator, the Network for the Support of Non-Governmental Organisations (which is a constant partner), and other NGOs invited on the basis of the topic under discussion. The first ‘Triangular Tables’ meeting (December 4, 1998) was held to discuss issues related to the disabled in light of integration with the European Union. Representatives from over twenty organisations active in the field of social welfare were present. The second meeting (10 March 2000) was devoted to the equality of rights of men and women, and was co-organised by the Non-Governmental Initiatives Forum. The third meeting (May 26, 2000) was devoted to the labour market and the methods of solving the problem of unemployment. Numerous other individual meetings with the representatives of social partners and opinion-making groups (e.g. church officials, university presidents, journalists and voivodship marshals) have been held since the beginning of the negotiations. These, among others, included meetings with the umbrella organisation of NGOs, with the representatives of the Provisional Liaison Committee for Co-operation with the Social and Economic Committee, the National Committee of the ‘Solidarity’ Trade Union, the representatives of the Polish Chamber of Commerce, the Polish Confederation of Private Employers, the Society of Polish Economists, the Polish Council of Legal Advisors, the representatives of the Polish Episcopate, the Convention of Voivodship Marshals (regional government), young people and journalists.<sup>9</sup>

Social dialog is realised in Poland on the country level in the form of a tree-party consultation with the participation of the government, entrepreneurs, and syndicates. The institutional form of this dialog was established in the beginning of 90s, by the creation of the Tree-Party Commission for Social and Economic Matters (Trójstronna Komisja ds. Społeczno-Gospodarczych). February 22, 1993, an important social agreement called the “Treaty on a state enterprise under restructuring” (*Pakt o przedsiębiorstwie państwowym w trakcie przekształcania*) was signed by the representatives of the two principal country syndicates (‘Solidarnosc’ and OPZZ), seven other syndicate unions, the Conference of Polish Employers, and the government.

In the competence of the Tree-Party Commission is the constant monitoring of the ongoing economic process, the evaluation of the social and economic policies, the formulation of opinions and recommendations

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<sup>7</sup> See Jędrzej Bielecki, ‘Komisja Europejska liczy na pomoc biskupów’, *Rzeczpospolita* 5th February 2000; Piotr Semka, ‘Jak trwoga, to do biskupów’, *Rzeczpospolita* 21st February 2002.

<sup>8</sup> Andrzej Stankiewicz, ‘Trzy czwarte na tak’, *Rzeczpospolita* 16th February 2002.

<sup>9</sup> See Agnieszka Biegaj, Agnieszka Drop, Alan Mayhew (eds.), *Accession negotiations. Poland on the road to the European Union* (Warsaw: Chancellery of the Prime Minister Republic of Poland, 2000), pp. 59-61.

concerning the priorities in such policies, esp. in relation to the wages, employment, social assistance, consumption (waged to investment ratio), and on the instruments needed to their realisation. In July 2000 the Commission became a member of the International Association of the Economic-Social Councils.<sup>10</sup>

Social dialogue in Poland includes several others well-implemented forms, as group negotiations on the level of enterprises or their branches, consultations with employees held by the employers and the managerial boards, information polices and other activities of the social partners. All of this forms of social dialogue certainly are not sufficient. In spite of the splendid syndicate tradition, only 17% of the Polish workers belongs to any syndicate (2000 data), that is far less than in Europe.

### **Equal treatment of men and women**

The existing Polish legislation generally reflects the requirements of the Treaty establishing the European Community and the relevant directives on equal treatment of women and men. The corresponding Polish acts will merely require some development.

By 31 December 2002 the following directives will have been fully transposed into Polish law :

Council Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for women and men, through an amendment to the Labour Code;

Council Directive 76/207/EEC on the implementation of the principle of equal treatment for women and men as regards access to employment, vocational training and promotion as well as working conditions, through amendments to the Labour Code and the Act on employment and combating of unemployment;

Council Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, through an amendment to the Regulation of the Council of Ministers of 28 May 1996 on parental leaves and parental benefits.

By 31 December 2002 Poland will have brought its laws into full conformity with the following EC directives:

Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast-feeding, through an amendment to the Labour Code;

Council Directive 86/613/EEC on the application of the principle of equal treatment between women and men engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood and with Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for women and men in matters of social security.

To this aim:

in December 1998 the Sejm (Parliament) amended the Act on the social security system of 13 October 1998, in 1999 a new Act on financial benefits in case of sickness and maternity will replace the Act of 17 December 1974 on such benefits, which will be abolished, in 2002 the Code of Civil Procedure of 17 November 1964 will be amended.

Furthermore, by 31 December 2002 Polish legislation will have been brought into conformity with Council Directive 97/80/EC on the burden of proof in cases of sex discrimination. This alignment will be effected through an amendment to the Labour Code.

In Poland there are no professional social insurance systems in the understanding of Council Directive 86/378/EEC on the implementation of the principle of equal treatment for women and men in occupational social security schemes and of Directive 96/97/EC, which amended it.

In October 2001 the new ruling coalition set up the Government Plenipotentiary for Equal Treatment of Men and Women.

### **Fight against racism and xenophobia**

The *acquis communautaire* in this area consists mostly of declarations and resolutions. Particular attention should be paid to Regulation 1035/97/EC setting up the European Centre for Monitoring of Racism and Xenophobia. Poland is ready for active participation in the works of the Centre. Polish policies on fighting racism conform to the objectives set out by those resolutions and recommendations.<sup>11</sup>

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<sup>10</sup> Beata Zaborowska, 'Dialog społeczny a proces negocjacji akcesyjnych', in: Beata Zaborowska and Tomasz Czyszek (eds.), *Polityka społeczna i zatrudnienie* (Warszawa: Kancelaria Prezesa Rady Ministrów, 2001), pp. 21-30, at pp.23-24.

<sup>11</sup> See Drop and Czyszek, Poland's position papers for the accession negotiations with the European Union, p. 307.

## European Social Fund

The preparatory measures undertaken in Poland enjoy SPP support (Special Preparatory Program for structural funds). The program is used to strengthen central and regional public administration which will deal in the future with programming, monitoring and implementation of regional policies and to develop strategies or program documents.

### Social insurance, elderly persons and social marginalisation

Council Recommendation 92/441/EEC on common criteria concerning sufficient resources and social assistance in social protection systems and Council Recommendation 92/442/EEC on the convergence of social protection objectives and policies defines objectives of protection, income guarantees allowing for life in dignity, access to health care, support for social and economic integration, guarantees of adequate living conditions for the retired, establishment and development of social protections for self-employed persons. Polish policies in this regard are similar to those contained in the *acquis*.<sup>12</sup>

Considerable effort for the melioration of the country public services was undertaken by Jerzy Buzek's government (1997-2001) which elaborated a new pension system in Poland and successfully introduced it in 1999. Certain pensions reforms were also implemented in the other East European countries: Hungary, Croatia, Bulgaria, and Lithuania.<sup>13</sup>

Old Polish pension system was functioning as a kind of a inter-generational solidarity agreement, in which direct intervention of the state was providing financial aid to the elder and handicapped persons, by the mean of the obligatory payments charging different kinds incomes. In the decade 1989-1998 public expenditure on pensions of all types have more than doubled, in relation to Polish GDP, increasing from about 6.5% in 1989 to about 14.5% in the years 1994-1998. This increase was financed in part by issuing public debt, the servicing of which further increased public expenditure by around 2.5% of GDP. The resulting total of 10.5% of GDP has been approximately equal to the sum of the average budget deficit of the public sector and all public expenditure on education and infrastructure investments.<sup>14</sup> Such large increase of transfers to the generation of current pensioners started to be dangerous to the macroeconomic stability and growth prospects of the country.

One of the reasons of the ongoing crisis was an increase of the average retirement pension from about 60% of the national average wage in the years 1989-90 to about 70-80% in the years 1994-98. This increase forced successive governments to reduce the wages of their own employees to a level close to the average retirement pension. This policy corresponded with strategy implemented the process of restructuration of the state enterprises, according to which the age and health criteria for entitlement to a pension have been relaxed. Growing unemployment augmented the number of pensioners, when in the same time total number of workers contributing to the state pension system declined.<sup>15</sup>

To overcome this crisis a far tighter link between pension benefits and pension contributions was needed. It was to be gained by introducing individual accounting and by the lowering of the redistributive component, in particular, by the lowering the obligatory social security contributions paid by the employer, in favour of the new obligatory and voluntary saving form the part of individual workers.<sup>16</sup>

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<sup>12</sup> See Drop and Czystek, Poland's position papers for the accession negotiations with the European Union, pp. 308.

<sup>13</sup> See Stanisława Golinowska and Piotr Kurowski (eds.), *Rational Pension Supervision. First Experiences of Central and Eastern European States in Comparison with Other Countries* (CASE Report No. 36, Warsaw: CASE, 2000). Analyses risks related to pension funds' operations and instruments safeguarding against them, considers also dilemmas related to different types of supervision, and finally gives a detailed analysis of the new pension systems in Hungary, Poland, Croatia, Bulgaria, and Lithuania. The Appendix contains examples legal provisions (acts) regarding the supervision of pension funds in mentioned countries.

See also Zoltán Vajda, *The Macroeconomic Implications of a Pension Reform* (CASE Report No. 20, Warsaw: CASE, 1999). Analyses the specific problem of pay-as-you-go pension system and the possible types of its reform. The Appendix contains many data of the case of Hungary.

<sup>14</sup> See Stanisław Gomulka and Marek Styczen, *Estimating the Impact of the 1999 Pension Reform in Poland, 2000-2050* (CACE-CEU Working Papers Series 27, Warsaw: Center for Social and Economic Research, 1999), p. 6.

<sup>15</sup> See *ibid.*, pp. 8-9.

<sup>16</sup> The specific problems of the country's pension system came to the attention of experts during the 1990s. The key problems were thought to be the following: low effective retirement ages, excessively liberal disability criteria, high replacement ratios, large redistributive components in the pension formula and excessive privileges for some categories of workers. There was also a need to diversify the institutional architecture in two ways: by complementing compulsory contributions with voluntary ones and by complementing the state social security system with private pension funds. See Wisniewski, 1992; Borowski/Gomulka, 1994; Polish Government, 1994; Gomulka, 1994; Golinowska, 1997a.

The 1999 reform was limited to retirement pensions outside agriculture. It created a new institutional architecture and introduced new rules concerning contributions and benefits. Following rules were respected in this change:<sup>17</sup>

- (1) The diversification principle: Security and efficiency of the pension system is enhanced by diversification of the system between state and private funds and between obligatory and voluntary contributions. New retirement pensions for workers consists of three pillars: (I) state, (II) open pension funds and (III) other, voluntary pension funds. Only pillars II and III are private, and only pillars I and II will receive obligatory contributions.
- (2) The distribution principle: The public part of the new system continue to be of the pay-as-you-go type, anyhow is made less redistributive and more transparent. Obligatory contributions remained proportional to earnings, but are now limited to the point equal to 2.5 times of the average wage. Half of the contribution paid before the reform by employers is now added to wages and is paid by employees. The key innovation is the establishment of personal accounts to which all the obligatory contributions of those in the new system will be assigned. These personal contributions are entirely inherited by survivors.
- (3) The capital-funding principle: The private part of the system is capital funded and well-regulated. The private pension funds which constitute pillar II receive a specified part of all the obligatory contributions (20%). Contributors are free to move their savings between funds. Any recognised fund must guarantee to all its contributors a rate of return not less than 2 percentage points below the pension industry's average rate.
- (4) The savings principle: The expenditure-savings measures are introduced in the obligatory part of the system, esp. tighter criteria for entitlement to invalidity pensions, increasing the effective retirement age (from 56 in 1997) and reducing the rate of growth of real pensions (to a minimum of 0.15 in the years 1999-2000 and 0.20 from 2001, of the growth rate of real wages).
- (5) The gradual phasing-in principle: The new system is not involving people near retirement. People aged 50 and above all remain in the old system, while those between 31 and 50 years old have the right of choice, and only those aged 30 and below are compelled to join the new system. In this respect, the Polish reform is similar to that introduced in Argentina in 1994.

It is estimated that by the end of December 1999, more than 8 million people had signed up with the open pension funds (pillar II). A substantial part of the previous social security premium (9.76% of gross pay, or more than one-fifth of the old public system's revenues) is now transferred to this new institutions.<sup>18</sup> They have a dual form in Poland: pension societies (management companies) and the actual funds themselves. They can be established by institutions fulfilling serious capital requirements (4 million Euros). The shareholders of pension societies are mainly large insurance companies, banks and other financial institutions. The corporate sector also participates in this process, including state-owned enterprises, but its capital is very dispersed.<sup>19</sup>

Wanting to protect the interests of its members from potential risks, the reformers envisaged a number of safeguards: complete separation of the pension fund's assets from the assets of the management company, required diversification of the funds' investment portfolios, the mechanism of a minimum rate of return, the participant's right to switch to another fund without any fees, the obligation to ensure fund participants access to regular information, the establishment of guarantee institutions (esp. The Guarantee Fund, administered by the National Securities Depository), and finally, specialised supervision over the funds' operations (the Pension Fund Supervisory Office, operating since May 1998).<sup>20</sup>

One of the key assumption of the Polish pension reform was the growth rate of GDP per worker. It was assumed that this rate will decline linearly, from 4.5% in 1997 to 2% in 2050, that in other terms implies the estimated GDP per worker to be 40% of the EU average in 2000, and 91% of this average by the year 2050.<sup>21</sup> The demographic forecast envisages that the population of Poland will increase from 38.8mln now to 40mln in 2020, and then decline to 36.7mln in 2050.<sup>22</sup>

Dramatic decline of the GDP growth in 2000 puts in question the final results of the reform.

An inspection made in 2001 in Zakład Ubezpieczeń Społecznych (ZUS), state's social insurance institution operating in the first pillar, by the Supreme Chamber of Auditors (NIK) envisaged that the public insurer is still unable to count properly its own clients and to supervise their interests. The electronic systems of the ZUS are still under construction, and the ZUS itself finds much difficulty in the transferring a proper part of the received obligatory payment to the private funds (pillar II). The scrutiny made by the NIK in these last ones put out in

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<sup>17</sup> See Gomułka and Styczen, Estimating the Impact of the 1999 Pension Reform in Poland, pp. 7-11.

<sup>18</sup> See Golinowska and Kurowski, *Rational Pension Supervision...*, p. 39.

<sup>19</sup> See *ibid.*

<sup>20</sup> Office of the Government Plenipotentiary for Social Security Reform, *Security through diversity: Reform of the pension system in Poland* (Warsaw, May 1997), p. 68.

<sup>21</sup> See Gomułka and Styczen, Estimating the Impact of the 1999 Pension Reform in Poland, pp. 11-12.

<sup>22</sup> See *ibid.*, p. 12.

evidence that after a year and half economical results in the second pillar are smaller than expected. The main profit of these funds come usually from the disciplinary payments from the ZUS.<sup>23</sup>

When the pensions reform started to be implemented August 1<sup>st</sup>, 1998 (the UNFE started accepting applications for licences), the potential number of agents was estimated at 100,000. The “worst-case” scenario prepared by the UNFE envisaged the necessity to register approx. 200,000. Meanwhile, by December 2, 1999, more than 450,000 people had been registered. Being aware of the impossibility of registering such a huge number “manually”, the pension societies had an informal agreement with the UNFE on submitting agents’ data for registration via electronic media.<sup>24</sup>

On January 14, 1999, thirteen pension societies that had obtained licences to operate private pension funds, drew up their first statement, which set rules for avoiding negative campaigns in relation to one another, as well as the basic rules for the good treatment of clients. In May 1999, the pension societies established the Pension Societies Chamber of Commerce (IGTE), which represents their interests before state institutions, including the parliament.<sup>25</sup> Although this is a grassroots initiative and membership in the chamber is not obligatory, most of the funds are IGTE members - 18 out of 21 currently in operation.<sup>26</sup>

### **Disabled persons**

Polish policies as well as legal acts concerning disabled persons fully conform to the *acquis communautaire* in this respect.<sup>27</sup>

### **The Foundation of Dublin**

Due to the subject-matter of the regulations covering the Foundation, there is no need to transpose them into Polish law. Poland declares its readiness to actively participate in the works of the Foundation.

### **Public Health<sup>28</sup>**

Poland, Hungary, and Czech Republic have a mandatory social insurance system (Bismarckian model). In Hungary, the monopolistic health insurance fund is under full government control, but a competitive multi-player insurance system is projected after 2001. In the Czech Republic, initially there were as many as 20 funds, but the state-controlled General Health Insurance Company now receives about 80% of total contribution. In Poland, there are 17 newly created funds, 16 of them regional - controlled by representatives of local parliaments and one Branch Insurance Fund. Private funds will be allowed to compete in Poland only from 2002 on.<sup>29</sup>

The very first and apparent results of the Polish healthcare reform is a certain increase of the use of public services in this sector, accompanied by the growth in the public spending.

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### **Safety and hygiene at work**

The Polish negotiators proposed 3 year transition period (till December 31<sup>st</sup>, 2005) referred to the Council Directive 89/655/EEC of November 30<sup>th</sup>, 1989, concerning the minimum safety and health requirements for the use of work equipment by workers at work and Council Directive 89/656/EEC of November 30<sup>th</sup>, 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace. The intention of the Polish part was to not apply this laws to the equipment that was in use in Polish enterprises before December 31<sup>st</sup>, 2002.<sup>30</sup>

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<sup>23</sup> See *Rzeczpospolita* January 2002 (to be corrected!).

<sup>24</sup> See Golinowska and Kurowski, *Rational Pension Supervision...*, p. 42.

<sup>25</sup> See Izba Gospodarcza Towarzystw Emerytalnych, “IGTE: Cele i zadania” (IGTE: Goals and tasks), in: *Polska reforma emerytalna na tle doswiadczen swiatowych* (Pension reform in Poland in the context of the international experience, Conference materials, Warsaw: 10-11.12.1999, in Polish).

<sup>26</sup> See Golinowska and Kurowski, *Rational Pension Supervision...*, p. 45.

<sup>27</sup> See Drop and Czyszek, Poland’s position papers for the accession negotiations with the European Union, p. 309.

<sup>28</sup> By 31 December 2002, Poland will have brought the Polish law in accord with Council Directive 89/622/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products. Council Directive 90/239/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum allowable tar yield of cigarettes, will have been transposed by 30 June 2002 in respect to maximum allowable tar contents in cigarettes, and by 31 December 2002 in its entirety.

<sup>29</sup> See Peter Mihélyi and Ryszard Petru, Health Care in the Czech Republic, Hungary and Poland - the Mediumterm Fiscal Aspects (CASE Working Paper Series No. 28, CASE, Warsaw: CASE, 1999).

<sup>30</sup> See Zaborowska and Korolec, p. 104.

### Minorities. The case of Gypsies

The International Centre for Migration in Vienna estimates that between 400,000 and 500,000 migrants are smuggled into the European Union each year.<sup>31</sup> A considerable part of them are Gypsies (Roma), who's European population counts about 6 millions. Most of them live in former communist countries, constituting there 5% to 12% of the whole population (See the Chart 5.). They are at the bottom of every socio-economic indicator: the poorest, the most unemployed (in 70% and above), the least educated, the shortest-lived, the most welfare-dependent, the most imprisoned, the most segregated, having the most children.<sup>32</sup>

During his visit to Slovakia in February 2001, Günther Verheugen, the EU commissioner for enlargement, said that "the EU is the Gypsies' best ally".<sup>33</sup> Verheugen promised \$10m for specific Gypsy development projects in Slovakia in 2001, anyhow the lack of financial resources certainly is not the biggest problem of the Gypsy communities. It is rather a severe lack of the responsible social leaders. Leadership is strong at the family level but weak and often corrupt at the political level. Attempts to make a coalition of Gypsy parties, Slovakia alone has 17 of them, are always unsuccessful. Besides of this, only a few Gypsies vote, and still fewer win. One estimate, there are 20 Gypsy MPs and mayors in several countries, besides 400 local councillors.

Traditional communist policy toward Gypsies was to integrate them with whites in work, in the new built urban districts. Such a policy was always realized only by administrative instruments of the central government, and usually was completely unsuccessful from the social point of view. The social aid given to the families, even if it was of small amount, the obligatory resettlement and obligatory working were corrupting, in the long run, traditional Gypsy morality (of the "free people"). Only in such countries like Poland, where Gypsy communities were relatively small (many Gypsies were killed during the WWII) the process of their urban integration has had at least some feature of success.

Locally elaborated programs, wider collaboration with NGOs, and well-structured policy towards existing Gypsy associations and real collaboration with them, who would always be the first responsible for the process of the social recovery of the Gypsy's communities, can probably bring much more positive results in the future.

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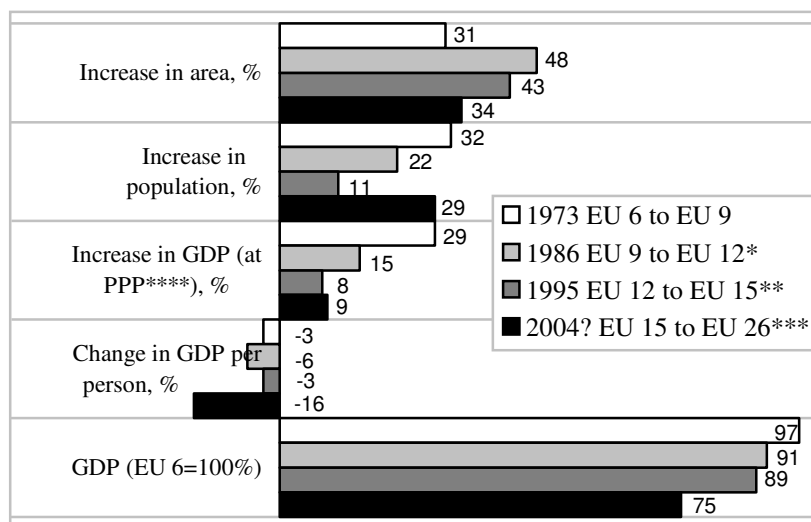
<sup>31</sup> See 'The last frontier', *The Economist* (June 24th 2000).

<sup>32</sup> See 'Europe's spectral nation', *The Economist* (May 10th 2001).

<sup>33</sup> See *ibid.*



## Appendix. Charts and Tables



**Chart 1. EU Enlargement: The bigger, the poorer? Impact of successive enlargements of the EU.**

Based on 1995 data.

\* Greece joined in 1991.

\*\* Excluding Malta and Turkey.

\*\*\* Including German unification.

\*\*\*\* Purchasing power parity (PPP) seeks to equalise the prices of identical bundles of goods and services in each country.

Source: OECD. See "Europe's magnetic attraction. A survey of European enlargement", *The Economist* May 19th 2001, p. 4.

**Table 1. EU Enlargement: State of Play. January 20<sup>th</sup>, 2002.**

No	Chapter	Cyprus	Czech Rep.	Estonia	Hungary	Poland	Slovenia	Bulgaria	Latvia	Lithuania	Malta	Romania	Slovakia
1	Free movement of goods	X	X	X	X	X	X	* 0	* X	* X	* X	~	* X
2	Free movement of persons	X	X	(X)	X	X	X	** 0	* X	* X	* X	~	* X
3	Free movement of services	X	X	X	X	X	X	* X	X	X	* X	~	X
4	Free movement of capital	X	X	X	X	(X)	X	X	X	X	X	* 0	X
5	Company law	X	X	X	X	X	X	X	X	X	X	* X	* X
6	Competition	0	0	X	0	0	X	* 0	X	X	X	0	0
7	Agriculture	0	0	0	0	0	0	~	* 0	* 0	** 0	~	* 0
8	Fisheries	X	X	X	X	0	X	* X	X	* X	0	* X	X
9	Transport	X	(X)	(X)	X	0	X	* 0	X	X	X	* 0	(X)
10	Taxation	0	X	0	X	0	X	** 0	* 0	* 0	* 0	** 0	* (X)
11	EMU	X	X	X	X	X	X	~	X	* X	X	~	* X
12	Statistics	X	X	X	X	X	X	X	X	X	X	X	X
13	Social policy	X	X	X	X	X	X	** 0	X	X	X	** 0	* X
14	Energy	X	X	0	X	X	X	** 0	* X	* 0	* X	~	X
15	Industry	X	X	X	X	X	X	** X	X	X	X	~	X
16	SMEs	X	X	X	X	X	X	X	X	X	X	X	X
17	Science and research	X	X	X	X	X	X	X	X	X	X	X	X
18	Education and training	X	X	X	X	X	X	X	X	X	X	X	X
19	Telecommunication	X	X	X	X	X	X	X	* 0	X	X	0	X
20	Culture and audiovisual	X	X	X	0	X	X	X	X	X	X	0	X
21	Regional policy	0	0	0	0	0	0	** 0	* 0	* 0	* 0	~	* 0
22	Environment	X	X	X	X	X	X	** 0	* X	X	* 0	~	* X
23	Consumers and health protection	X	X	X	X	X	X	X	X	X	X	** X	X
24	Justice and home affairs	X	X	0	X	0	X	* 0	* 0	0	* 0	~	* 0
25	Customers union	X	X	0	X	X	X	* 0	* X	X	* 0	* 0	X
26	External relations	X	X	X	X	X	X	X	X	X	X	X	X
27	CFSP	X	X	X	X	X	X	X	X	X	X	X	X
28	Financial control	X	X	X	X	X	X	* 0	* X	* X	* X	~	X
29	Financial and budgetary provisions	0	0	0	0	0	0	** 0	* 0	* 0	* 0	~	* 0
30	Institutions												
Chapters opened (1)		29	29	29	29	29	29	27	29	29	29	17	29
Chapters closed (2)		24	24	20	24	20	26	14	23	23	20	9	22

0 Chapter opened, under negotiations

X Chapter provisionally closed

(X) Chapter for which the provisional closure proposed in the EUCP has not been accepted by the C candidate.

• Chapter opened to negotiations under Swedish Presidency

\*\* Chapter opened to negotiations under the Belgian Presidency

~ Chapter not yet opened to negotiations.

Source: European Commission (<http://europa.eu.int/comm/enlargement/negotiations/pdf/>).

**Table 3. Legal employment of Poles abroad under signed bilateral employment agreements.**

Country	Nature of agreement	Number of persons employed
France	Agreement on exchanges for vocational training purposes, 1990	101 in 1999*
	Agreement on the employment of Polish seasonal workers in France, 1992	18.798 in the period 1992-1998 2.721 in 1999
	Agreement on the secondment of workers of Polish enterprises for the purpose of realising works contacts, 1990	c. 230.000 in the period 1991-1999
Germany	Agreement on the employment of <i>Gastarbeiter</i>	6.697 in the period 1991-1999*
	Agreement on mediation in the employment for a limited period of Polish workers, 1999 (earlier mediation was based on a 1990 declaration)	
	- as seasonal workers	c. 1.138.000 in the period 1991-1999
	- in border areas	c. 16.150 in the period 1991-1998

\* Poland did not fill the quota opened by France

\*\* Poland did not fill the quota opened by Germany

Source: Andrzej Stepniak (ed.), *Enlargement of the European Union to the East. Consequences for prosperity and employment in Europe* (Warsaw: Chancellery of the Prime Minister of the Republic of Poland, 2000), p. 88. Based on a paper prepared for the Office of the Committee for European Integration by Prof. Antoni Rajkiewicz.

**Table 3. Estimated migration from Poland to the UE according to three possible scenarios (in thousands).**

	Scenario A	Scenario B	Scenario C
	Constant GNP growth in Poland	Slow PKB growth in Poland	Quick GDP growth in Poland
Germany	410	276	195
France	134	77	43
Austria	123	61	23
Belgium	106	48	14
Netherlands	104	48	15
Sweden	102	46	12
Italy	93	52	27
Great Britain	91	50	25
Finland	90	38	6
Denmark	85	42	16
Spain	45	14	0
Ireland	44	5	0
Luxembourg	34	15	4
Greece	12	0	0
Portugal	0	0	0
Total	1472	711	380

Source: Leszek Zienkowski, 'Ekonomiczne aspekty swobodnego przepływu pracowników w rozszerzonej Unii Europejskiej', in: Andrzej Stepniak, *Swobodny przepływ pracowników w kontekście wejścia Polski do Unii Europejskiej* (Warszawa: Kancelaria Prezesa Rady Ministrów, 2001), pp. 99-126, at p. 117.

**Table 4. Estimated migration from Central and Eastern Europe to the EU.**

Source	Estimated migrants	From	Method applied in this estimation
Loyard et al. 1992	130.000 a year to all the Western countries.	Poland, Czech Rep., Hungary, Slovakia, and other Eastern European countries	3% of the population of Eastern European countries emigrated to the Northern Europe in 1950-1970. Loyard takes this fact as a point of reference in his evaluation.
Brueker/Franzmeyer 1997	(1) 340.000-680.000 a year to the EU, or (2) 590.000-1.800.000 a year, to the EU	(1) Poland, Hungary, Czech, Slovakia, Slovenia (2) all applying countries	'Gravitational model', respecting different economical factors, esp. differences in the income level.

Fassmann, Hintermann 1997	721.000 as a real migration potential, 320.000 to Germany, 150.000 to Austria	Czech, Poland, Slovakia, Hungary	Gallup Institute inquiry made in these four countries.
Aintila 1998	c. 13.000 a year to Finland	Baltic countries and Poland	Evaluations based on Lundberg's work.
Birner/Huber/Winkler 1998	(1) 24.100 (2) 21.700 regional migration to Austria in the first year of liberalisation	Czech Rep., Poland, Slovakia, Slovenia, Hungary	(1) if the first year of liberalisation will be 2004 (2) in the first year of liberalisation will be 2010 Method based on Walterskirchen-Dietz research applied to the border regions of Austria
Hofer 1998	25.000-40.000 to Austria, each year	Poland, Hungary, Czech Rep., Slovakia, Slovenia	Recounting of the results of Brueker/Franzmeyer 1997
Lundborg et al. 1997 Lundborg 1998	628.000-1.885.000 workers (including families) to EU within 15 years; 126.000 each year; 20.000-30.000 to Sweden only	Baltic countries and Poland	As Layard 1992
Sujanova/Sujan 1997 (also Huber/Pichelmann 1998, Hofer 1998)	39.000 to the EU in the years 2005-2010	only Czech Rep.	Econometric model
Huber/Pichelmann 1998	140.000-200.000 to the EU	Central and East European countries	Based on Sujanova/Sujan 1997 estimation
Sik 1998 (also Huber 1999, Salt 1999)	Migrational potential in the border regions	Hungary	Panel research
Walterskirchen/Dietz 1998	(1) 42.000 (2) 31.600 to Austria (workers and oscillatory movement) 150.000-200.000 a year in the following 5 years 150.000 a year in longer period	Czech Rep., Poland, Hungary, Slovenia, Hungary	As in Brueker/Franzmeyer 1997: (1) if the free movement will be introduced in 2005 (2) and if it will be introduced in 2015.
Wallace/IOM 1998	No estimations; reasons of migration explained and the most preferred countries of destination	Poland, Czech Rep., Slovakia, Slovenia, Hungary, Rumania, Bulgaria, Croatia, old Jugolavia, Ukraine, Bielorussia	Inquiry made in a representative group of c. 1000 person in every of their countries.
Bauer/Zimmermann 1999	c. 3.000.000 within next 10-15 years; 200.000 each year the EU	Czech Rep., Poland, Slovakia, Slovenia, Rumania, Bulgaria	Two scenarios: with transition periods and without them.
Fertig 1999 (also Huber 1999)	(1) 31.000-38.000 to Germany each year within next 20 years  (2) 33.000-39.000 each year	(1) from the countries received in the first round: Poland, Estonia, Slovenia, Czech Rep., Hungary  (2) from the countries received in the second round: Bulgaria, Rumania, Latvia, Lithuania, Slovakia	It is enlargement of the Halton's (1995) model based on data given by the German Migration Office. Presupposes the middle GDP growth 2 points greater in the Central and Eastern European countries than in Western Europe.
Salt et al. 1999	max. 41.000 to the EU each year	Estonia, Poland, Slovenia, Czech Rep., Hungary	Projection based on the past immigration indicators of several Western countries in 1985-1995
Orłowski/Zienkowski 1999	390.000-1.000.000 to the EU; 195.000-410.000 to Germany; 23.000-123.000 to Austria	Poland only	„Gravitational” model. Results depends much on presupposed of economic factors.

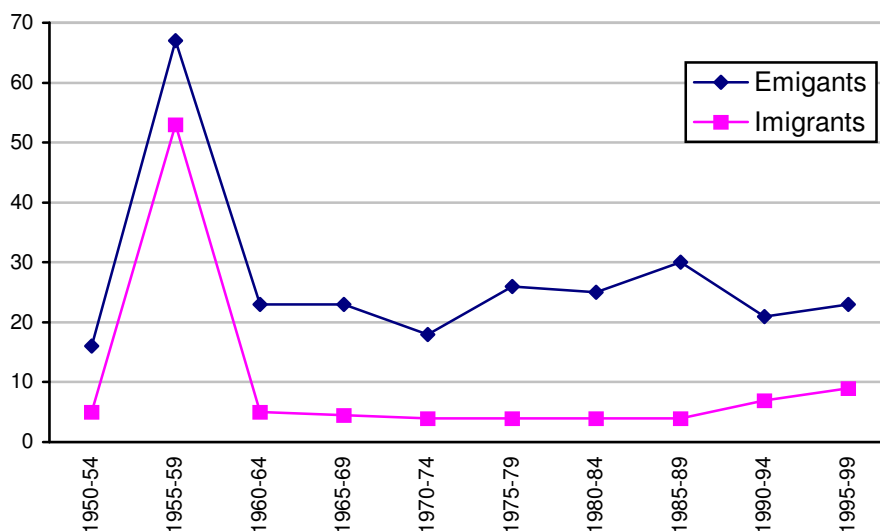
Source: Leszek Zienkowski, 'Ekonomiczne aspekty swobodnego przeplywu pracownikow w rozszerzonej Unii Europejskiej', in Andrzej Stepniak, *Swobodny przeplyw pracownikow w kontekście wejścia Polski do Unii Europejskiej* (Warszawa: Kancelaria Prezesa Rady Ministrów, 2001), pp. 99-126, at pp. 122-123. For the bibliographical references to the authors quoted above see Quaisser et al. (2000), p. 117.

**Table 5. Estimates of potential migration into the EU from the candidate countries under conditions of free movement.<sup>34</sup>**

	CC8 <sup>35</sup> migrants		CC10 migrants	
	Stock	Flow/year over first 10 years	Stock	Flow/year over first 10 years
Brücker/Boeri 2000 (only workers!)	860,000 (after 10 years)	70,000 declining to 30,000	1.4 million (after 10 years)	120,000 declining to 50,000
Brücker/Boeri 2000 (all migrants!)	1.8 million (after 10 y.)	200,000 declining to 85,000	2.9 million (after 10 years)	335,000 declining to 145,000
Sinn et al. 2001 <sup>36</sup>	2.7 million (after 15 years)	240,000 declining to 125,000	4.2 million (after 15 years)	380,000 declining to 200,000
Walterskirehen/Dietz 1998 <sup>37</sup> (exc. commuters)		160,000 declining to 110,000		
Bauer/Zimmermann 1999 <sup>38</sup>	2.5 million (after 15 years)			200,000
Fassmann/Hintermann 1997 <sup>39</sup>	720,000 long-term migration			
Hille/Straubhaar 2000				270.000 to 790.000
Salt et al. 1999 <sup>40</sup>	2.25 million (3% of population) (after 15 years)	140.000		

Source: European Commission, *The Free Movement of Workers in the Context of Enlargement* (Information Note: 6 March 2001), p. 34.

**Chart 2. Migrations from/to Poland, 1950-1999, in thousands.**



Source: Teresa Iglicka, 'Migracje zagraniczne Polaków w drugiej połowie XX wieku', in: Andrzej Stepniak (ed.), *Swobodny przeplyw pracownikow w kontekście wejścia Polski do Unii Europejskiej* (Warszawa: UKIE, 2001), pp. 41-50, at p. 42.

<sup>34</sup> Some figures are extrapolations, for the sake of comparability in terms of time span and geographical coverage.

<sup>35</sup> CC8 includes all candidate countries aspiring to accede in 2003: the Czech Republic, Hungary, Poland, Slovakia, Slovenia, Estonia, Latvia, Lithuania.

<sup>36</sup> Excluding Bulgaria, Slovenia and Baltic States. For the sake of comparability, figures are extrapolated to the whole EU from research results for Germany, assuming the present distribution of migrants among the EU15 remains the same.

<sup>37</sup> For the sake of comparability, figures are extrapolated to the whole EU from research results for Austria, assuming the present distribution of migrants among the EU15 remains the same.

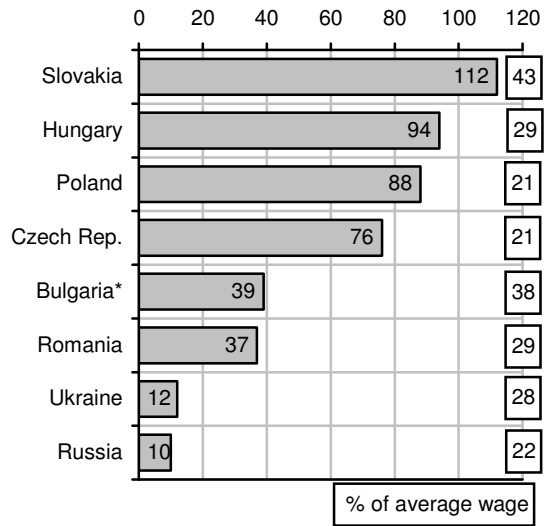
<sup>38</sup> Excluding Slovakia and Baltic States.

<sup>39</sup> Excluding Slovenia and Baltic States.

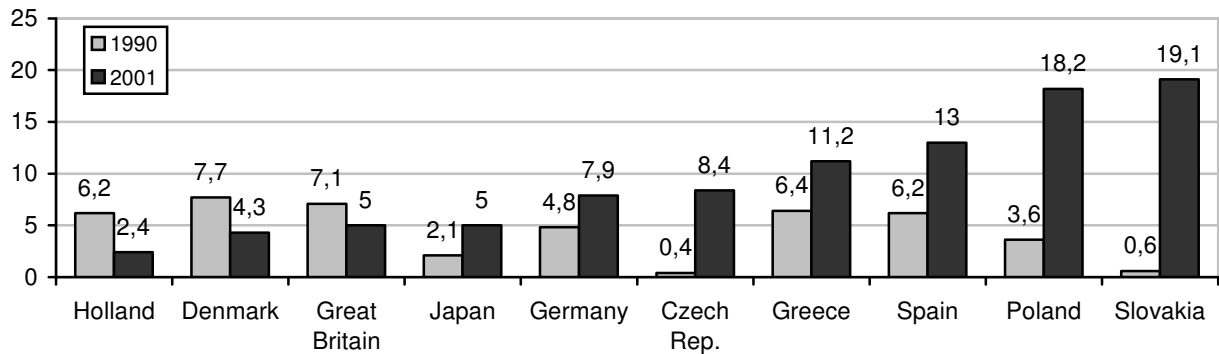
<sup>40</sup> Excluding Baltic States.

**Chart 3. Average monthly unemployment benefit, 1999, \$.**

Source: *Business Central Europe*, December 2000/January 2001.



**Table 2. Unemployment rate, %**



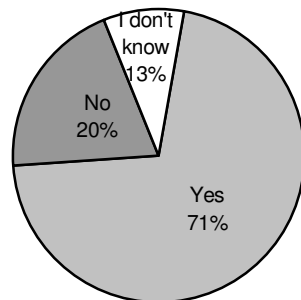
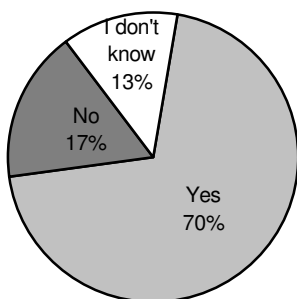
Source: OECD. See Halina Bińczak, "Sam rynek pracy nie wystarczy", *Rzeczpospolita*, 23rd March, 2002.

**Table 6. Unemployment rate in percentage terms.**

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Czech Rep.	4,1	2,6	3,5	3,2	2,9	3,5	5,2	7,5	9,4
Estonia	-	-	6,5	7,6	9,7	10,0	9,7	9,6	-
Lithuania	0,3	1,3	4,4	3,8	6,2	7,0	5,9	6,4	-
Latvia	0,6	39	87	16,7	18,1	194	14,8	13,8	-
Poland	11,6	13,6	16,4	16,0	14,9	11,5	10,2	10,4	13,0
Slovenia	7,3	8,3	9,1	9,0	7,4	7,3	74	7,9	-
Hungary	7,4	12,3	12,1	10,4	10,4	10,5	10,4	9,1	9,4

Source: *Rzeczpospolita* 01.02.2000; Polish Central Statistical Office; EBRD 1999; ECE 1999; Economic situation and outlook for Poland, 1st-3<sup>rd</sup> quarter 1999, IBnGR, Gdansk 1999. See Andrzej Stępnik (ed.), *Enlargement of the European Union to the East* (Warsaw: Chancellery of the Prime Minister of the Republic of Poland, 2000). p. 92.

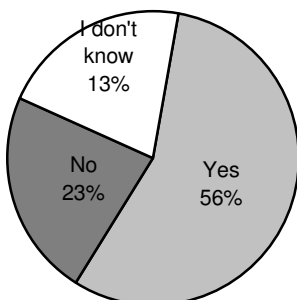
**Chart 4. Will you participate in the referendum for joining the EU? Poland, February 2002.**



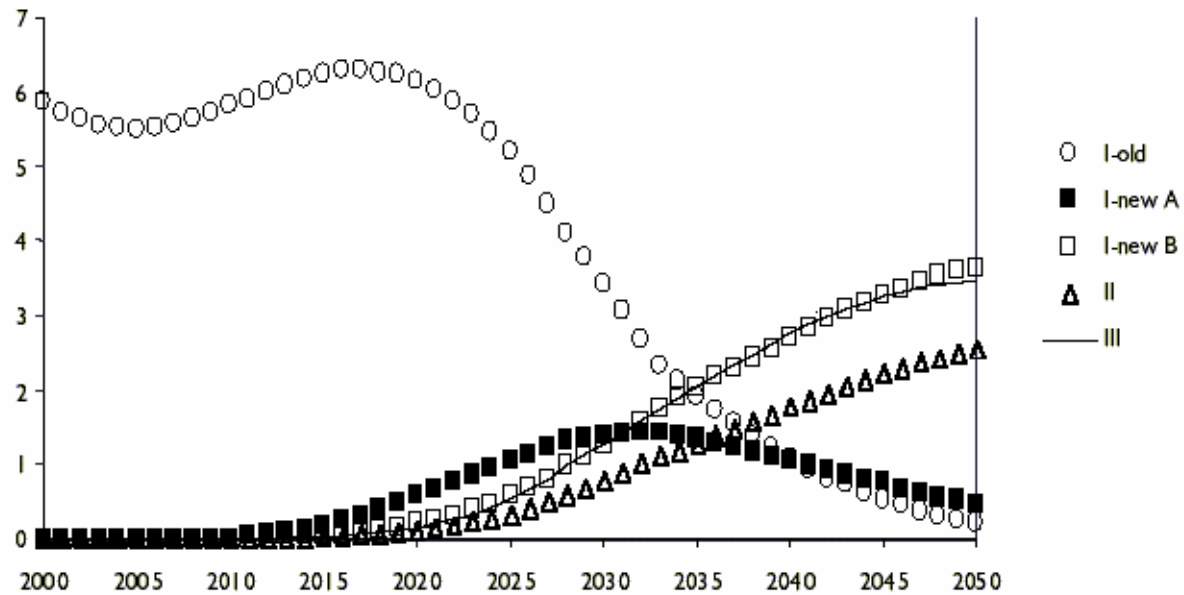
**Chart 4a. Will you vote for joining the EU, or against? Responses of those who are decided to participate in the referendum.**

**Chart 4b. Support for integration with the EU in Polish society.**

Source: Andrzej Stankiewicz, 'Prawie trzy czwarte na tak', *Rzeczpospolita* 22<sup>nd</sup> February 2002.



**Chart 5. Pension reform in Poland. Retirement pensions expenditures by different pillars, as proportions of GDP (in percents).**

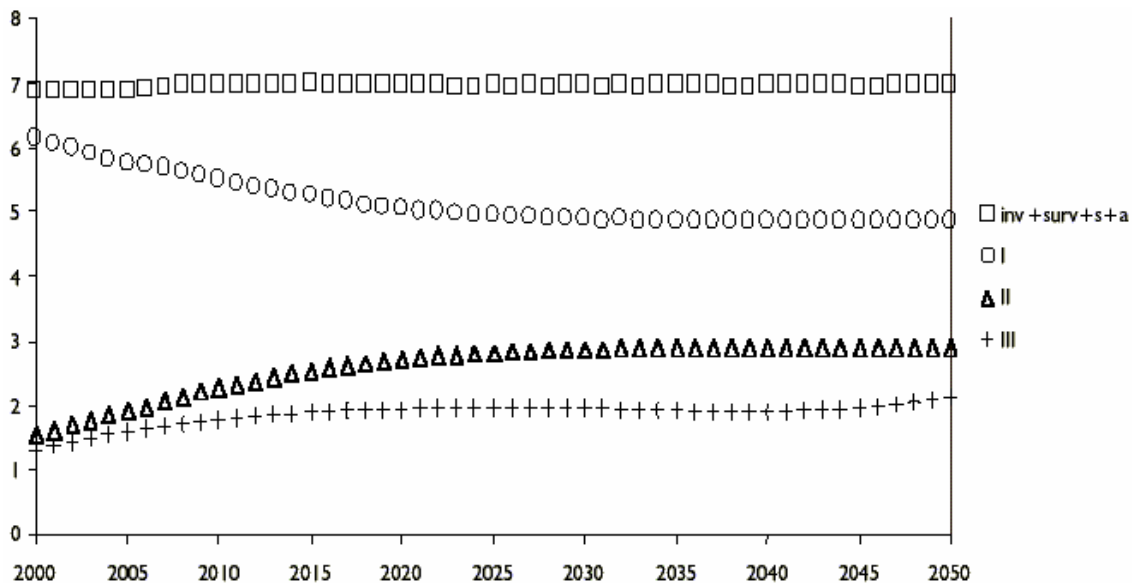


Types of pension institutions:

- I-old            old state system not covering farmers, military, police and judiciary
- I-new A        imputed capital on personal accounts, in pillar I, new system
- I-new B        post-reform contributions on personal accounts in pillar I, new system
- II               private funds, obligatory contributions
- III              private funds, voluntary contributions

Source: Gomolka/Styczen 1999, p. 31.

**Chart 6. Contributions to different pillars as fractions of GDP (in percents).**



Types of benefits or institutions:

- inv            invalidity outside agriculture
- surv         survival (family) outside agriculture
- s + a        sickness and accidents outside agriculture
- I             I-old + I-new A + I-new B (see above)
- I, II         see above

Source: Gomolka/Styczen 1999, p. 34.

**Table 7. Doctors' consultations per head in 1996 (or latest available)**

Source: OECD and Health Care System in Transition – Czech Republic, WHO 1996.

See Peter Mihélyi and Ryszard Petru, Health Care in the Czech Republic, Hungary and Poland (Warsaw: CASE, 1999), p. 14.

United Kingdom	5.9
Sweden	2.9
Germany	6.4
USA	6.0
Poland	5.4
Hungary	14.8
Czech Rep.	14.7

**Table 8. Debt of healthcare sector in Poland as a % GDP**

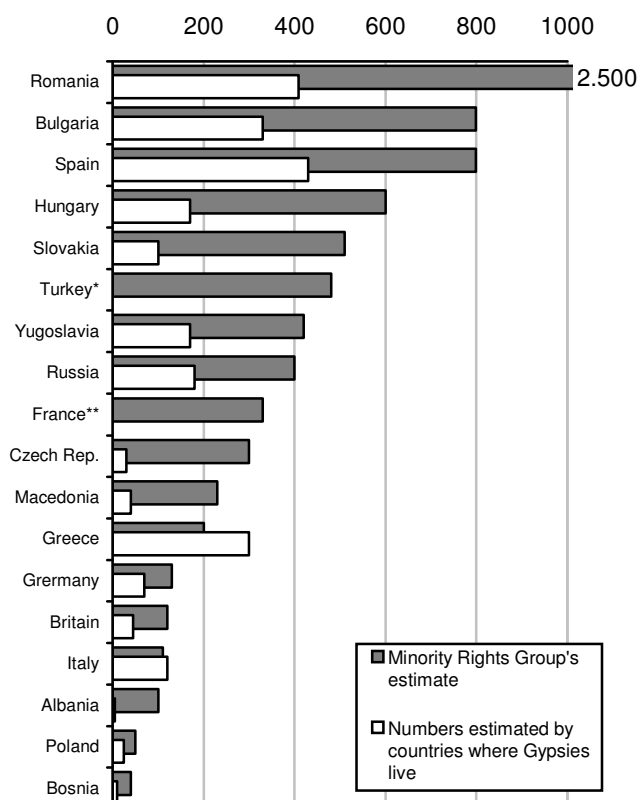
	1990	1991	1992	1994	1995	1996
Poland	N/A	N/A	0.35	0.28	0.61	0.63

Source: Peter Mihélyi and Ryszard Petru, Health Care in the Czech Republic, Hungary and Poland (Warsaw: CASE, 1999), p. 28.

**Table 9. Per capita health-care expenditures in US dollars at purchasing power parity (1997 or latest available data)**

Turkey	232	Belgium	1747
<i>Poland</i>	371	Austria	1793
Mexico	391	Australia	1805
Korea	507	Norway	1014
<i>Hungary</i>	602	Netherlands	1025
<i>Czech Rep.</i>	904	Denmark	1848
Greece	974	Iceland	2005
Portugal	1125	France	2051
Spain	1168	Canada	2095
Ireland	1724	Germany	2339
United Kingdom	1347	Luxembourg	2340
New Zealand	1352	Switzerland	2547
Finland	1447	USA	4090
Italy	1589		
Sweden	1728		
Japan	1741	OECD-average	1558

Source: Peter Mihélyi and Ryszard Petru, Health Care in the Czech Republic, Hungary and Poland (Warsaw: CASE, 1999), p. 28.



**Chart 8. Estimated maximum number of Gypsies in Europe, in thousands.**

\* Maximum of estimate range

\*\* Official figure unavailable

Sources: European Roma Rights, Minority Rights Group

See 'Europe's spectral nation', *The Economist*, May 10<sup>th</sup> 2001.

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