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***The “Tripartism of Political Legitimation” or the (Post-) Democratic Face of Dependent Capitalisms: the Case of Bulgaria and Romania***

*Violaine Delteil<sup>1</sup>*

**Abstract:**

Tripartism has been all the rage since the early days of Eastern and Central Europe’s transition. In the Visegrad countries its institutionalisation has often been formal. In the eastern and western Balkans on the other hand, peak-level social dialogue has been clearly mobilised and institutionalised by governments. By comparing Bulgaria and Romania, this article seeks to highlight the inherent traits of these two experiences in tripartism, since the transition through to the present crisis. The identification of a “tripartism of political legitimacy” echoes and complements the thesis of an “illusory corporatism” put forward by D. Ost (2000). It raises two questions that run through research today. The first concerns the decisive role played by factors external to domestic socio-politics, and which for both these countries exemplify the model of “dependent capitalism”. The second refers to the terms and channels of social Europeanisation in the enlarged EU, being applied here to social dialogue. By way of conclusion, the article stressed a congruence, if not real convergence, between this government-led tripartism and the ever-more functionalist and partnership-oriented social dialogue promoted by the EU over the last decade.

**Keywords:** corporatism, labour relations, Europeanisation, Central and Eastern Europe, Balkans.

**Introduction and purpose of the research**

Since the enlargement of the European Union to Central and East European Countries (CEECs) through to the consequences of the 2007 crisis, the evidence of limits to social Europeanisation has accumulated steadily. The industrial relations field is a patent illustration with the persistence of strong East European specificities. These original features, exemplified by Bulgaria and Romania, stem in particular from the lack of coordination of industrial

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relations systems and the weak regulatory capacity of the new rules of the game (in part derived from EU law). The resulting assessment of tripartism, i.e. social dialogue between government, trade unions and organisations representing employers, is accordingly ambivalent.

Tripartism was put forward as a key means for pacifying the transition by the ILO and the IMF in the early 1990s: it has been all the rage in the CEECs right since the beginning of the transition. At its macroeconomic level, social dialogue undoubtedly had specific virtues in the key transition years. It enabled new governments to make pledges (formally at least) of adhering to West European democracy, including the interests of workers. It was also and above all the best means to deal with the difficult “Transition Dilemma” (Bohle, Greskovitz, 2006) of holding together the implementation of systemic reforms with high social costs, and for generating the support necessary to political democracy. For governments with weak foundations and fragile legitimacy, the use of dialogue or tripartite negotiation allowed them to share responsibility of difficult reforms with relatively cooperative “social partners”. For the latter, and especially for trade unions in need of legitimacy and/or a new ideological position, tripartism provided a guarantee of institutional survival if not of true integration into public decision-making.

This early institutionalization of tripartism helped these countries meet the formal (and relatively minimalist) requirements of the EU social dialogue, almost a decade later. However, tripartism failed to achieve reconciliation with the West European principles of “macro-corporatism”. Instead, the following years rather confirmed the thesis of “illusory corporatism” put forward by D. Ost (2000/2010). Rather than applying the original features of the macro-corporatism, focusing on the development of inclusive class compromise, tripartism was reshaped for the purposes of a “symbolic inclusion” of workers interests, of social peace and government legitimacy.

This assertion of a “political legitimization tripartism” echoes the increasingly instrumentalist interpretation of the social dialogue within the EU, used to facilitate the acceptance of reforms. It has been particularly manifest in the Balkans. In this region of southeast Europe, social dialogue has indeed been exploited continuously by governments. It contrasts with the gradual marginalisation of tripartism in Central Europe (with the exception of Slovenia). This regional variant is illustrated forcefully by Bulgaria, and to a lesser extent Romania. It is not accidental and cannot be inferred only from the weakness of labour (or “weak labour”) as claimed by D. Ost for the CEECs as a whole. In fact, “weak labour” is less important in both countries studied here (Glassner, 2014). This variant also refers especially to two other factors. The first relates to the weak political legitimacy of organised actors, ie. governments but also trade unions and employers. This aggravates endemic corruption and the permanence of “weak states” in these countries (Bohle, Greskovitz, 2012), as public authorities are marked by weak regulatory capacities. The second factor relates to the high external dependency of these economies. This is both an economic dependency on foreign capital and markets, and a political-institutional dependency on the EU and international institutions (led by IMF supervision).

Based on a comparison of the Bulgarian and Romanian experiences tripartism, this work proposes to complete the existing literature at two levels. First, it offers a grid for analysing and shedding light on a region – South-Eastern Europe – which has been considerably less researched than Central Europe (see in particular Ost, 2000/2010; Meardi, 2011; Bernaciak, 2013).<sup>2</sup> Secondly, it proposes to structure the analysis of tripartism in Eastern Europe around two questions that are driving research today. One is an extension of work on the diversity of capitalism, and on the specifics – especially social – of “dependent capitalism”. The other relates to the modalities (explicit and implicit, top-down and bottom-up) which are governing social Europeanisation in the enlarged EU.

In Section 1, the article discusses the drivers of the “dependent capitalism” model in order to examine the variations in this ideal type, which is notably organised around a “weak state” in the field of tripartism. The second section compares the use of tripartism in Bulgaria and Romania over three time periods: i) the phase in which tripartism was implemented, ii) the phase of negotiating accession to the EU and preparation for EMU (the application of Maastricht convergence criteria), and finally iii) the crisis phase. The conclusion proposes reinterpreting the East European “tripartism as political legitimacy”, with regard to the process of Europeanisation. Following D. Ost (2011), it is argued here that the gap with the historical European model stems not only from domestic resistance, but also reflects a compatibility with a European model of social dialogue that is managerial and instrumentalist, and which facilitates the spread of neoliberalism.

## **1- Tripartism in dependent capitalisms: “weak states” and dominant government**

### **a) Bulgaria and Romania as archetypes of dependent capitalisms**

Bulgaria and Romania exemplify “dependent capitalism” in many ways, as ideal types put forward by several authors, to account for the originality of East European capitalisms (King, 2007; Myant, Drahokoupil, 2012).<sup>3</sup> Bulgaria and to a lesser extent Romania lead the region in terms of economic dependence, whether this is measured by the share of foreign resources and capital or in the share of imports and exports relative GDP. These two countries are similar to the western Balkans. In terms of external resources, the two countries stand out given the cumulative importance of migrants’ remittances, which have hovered around 3-4% of GDP over the last decade. This is nearly twice the level for the Visegrad countries, as estimated by World Bank. The same holds for FDI (foreign direct investment) that represented 51% of gross fixed capital formation in Bulgaria and 20% in Romania for the period 2003 to 2011, compared to only 15% for the Visegrad countries (WIIW, 2012, p.43). These flows are further supplemented by public and private international financial and bank loans to these countries, where the share of bank assets held by foreigners exceeds 85% (Unicredit, CEE Outlook).

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<sup>2</sup> M. Bernaciak (2013) and to a lesser extent D. Ost (2000/2010) do refer to Bulgaria.

<sup>3</sup> For their part, D. Bohle & B. Greskovitz (2012) refer to the concepts of “peripheral capitalism” and “semi-periphery”, which are less explicit in according to the author.

The importance of FDI was initially crucial for these countries, which were characterised by “capitalism without capitalists”. Moreover, FDI expanded with their growing integration into the single market and the expansion of “low road” tax and wage attractiveness strategies. Indeed, the magnitude of FDI raised the “structural power of capital” relative to labour to levels rarely achieved elsewhere (Bohle, Greskovitz, 2006). The lobbying power of foreign investors *vis-à-vis* the public authorities was further strengthened by their organisation in Chambers of Commerce benefiting from diplomatic support.<sup>4</sup> For their part, remittances have overtaken FDI as the primary source of external capital since the onset of the crisis, and this has not been without consequences for the balance of forces. This external windfall has significantly increased dependence on imported products. But it has also had an ambivalent role on the power of employees and how this is expressed. The benefits of migration, especially in its circular or cross-border dimension, have acted as a “reservation wage”, allowing some workers to raise their wage expectations in some stretched employment pools (these are in fact increasingly rare). More generally, however, migration has provided the possibility of “exit” which has consequently limited dissent and the “voice” option concerning conditions of employment, using the terminology of A. Hirshman. These bordering traits across these two countries do not exhaust the comparison undertaken here. It is in fact important to distinguish Bulgaria and Romania with respect to market dependence, and especially in terms of their integration into the EU Single Market and international trade networks. Bulgaria’s “peripheral” and Romania’s “semi-peripheral” integration stem to a large extent for differences in FDI into these two countries.

The differences are significant concerning industrial specialisation, as well as the content and orientation of FDI, towards exports or the domestic market (Ban, 2013). Romania is characterised by the greater weight of the manufacturing and its more pronounced integration into the global value chains of multinational corporations (MNCs). Accordingly, it is closer to the Visegrad countries. Bulgaria, in contrast, stands closer to the countries of the Western Balkans, where FDI is less industrial and less export-oriented. Its FDI is more focused on infrastructure for the domestic market (construction, energy or tourism), whose attractiveness stems in part from the capacity to generate monopoly rents. In passing, it may be added that the more strategic and less volatile nature of FDI to Romania contributes to explaining the far more assertive organisation of lobbying by international investors: the size of the Romanian market plays a role in this too. Such lobbying is led by the Foreign Investors Council, and American Chamber of Commerce which leads the Council (Delteil, 2013b).

External economic dependence is enhanced by political and institutional dependence, to which it also contributes. This latter dependence results from overlapping external supervision, with the EU being only the most recent actor. For both countries, the IMF has exercised foreign supervision since the 1990s, with the introduction of a currency board in Bulgaria,<sup>5</sup> and agreements on financial assistance that were repeatedly reached between Romania and IMF (even if disciplinary powers were initially limited by the resistance of

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<sup>4</sup> On the role of foreign Chambers of Commerce, the author refers to two sets of field work, one carried out in Romania (Delteil, 2013b), and the other in the Hong Kong and Guangdong region (Delteil, 2014).

<sup>5</sup> The currency board created a fixed exchange rate system for the lev-dollar, and in practice suspends all monetary policy autonomy.

domestic political forces). The integration of these countries into the EU gradually equipped the latter with powers of bargaining and “multi-band” coercion, which have successively imposed conditionalities in exchange for membership of the EU, EMU (compliance with Maastricht criteria which first and foremost imposes control on public spending and wage increases), or even access to the Schengen area. The latter has been postponed several times. It is still under negotiation, and will place Bulgaria and Romania under the tight control of a “monitoring mechanism”, which is unparalleled elsewhere in the EU. The 2007 crisis significantly weakened the Romanian monetary and banking system, and it obliged Romania to sign new agreements for financial assistance with the IMF, the EU and the ECB, placing the country under multi-headed supervision, whose power goes a long way to explaining the success of the unprecedented dismantling of Romania’s social model in 2011.

b) The internal and external aspects of the “weak state” or “dependent state”

External dependence has internal political and institutional causes, which the concept of a “weak state” illustrates forcefully. This concept was proposed by D. Bohle and B. Greskovitz (2012) for the group of countries including Bulgaria and Romania. According to them, a “weak state” is unable to mediate between interests, to discipline capital, and to filter the demands of elites and other powerful actors. In fact, it leaves significant scope to collusion between business and politics, to informal lobbying of the latter by the former, and the private capture of public resources (especially through “informal privatisations”).

The “weak state” also results downstream from the chronic weakness of tax revenues. This was particularly related to the economic decline during the first decade of the transition, to low and non-progressive taxation which asserted itself in the second decade, and to the recurrence of tax fraud. Finally, the weakness of public authorities results from the deficit of administrative competence. The latter opens the field to the influence to a plurality of non-state actors, domestic and international players operating under the authorisation imposed by external expertise (the EU or the IMF), or by the offering of private expertise, which is the immersed dimension of lobbying.

Far from being independent, these external economic and political-institutional dependencies come together and reinforce each other, under the banner of the “weak state”. Such weak states are unable to provide the foundations for sustainable growth regimes that are relatively protected from external hazards, or strengthen their tax collection authority. “Weak states” feed external economic dependency, and through the growing power of foreigner investors, act to transmit pressure from the EU and international institutions in favour of neoliberal “structural reform” agendas. Moreover, these external pressures enhance the permeability of states to foreign expertise. They nurture the dissemination of ideas and cognitive schemes, and the processes whereby local elites are converted to neoliberalism. These processes started in the early days of the transition, especially in Bulgaria (Spasova, 2015). Ultimately, they reinforce the orientation of these economies towards “low road” economic regimes that are heavily dependent on Western markets and investors.

This twofold dependency has sanctioned the lack of strategic vision in both countries and the postponement of reforms by initial governments until 1997. It gradually reduced the margins

of manoeuvre policymakers had. The dependency has also provided the opportunity to governments sharing the broad goals of the neoliberal political agenda to use “external pressures” strategically. These were integrated very early on into the arguments used by the Bulgarian and Romanian governments, long before the crisis came to consolidate this political credo more systematically (Toth, Neumann, 2004).

It should be added straight away that these external pressures may have an ambivalent impact on the use of social dialogue, depending on their nature and according to the game of domestic forces. These external forces may both try to impose the use of tripartite social dialogue, as the ILO did originally and to a lesser extent the EU. They may also provide a source of external legitimacy to governments, through the force with which constraints are imposed and are non-negotiable. In this case, external pressures may provide an external legitimacy to governments, allowing them to withdraw from the injunction to pursue “soft” social dialogue and instead push through change in the name of “non-negotiable pressures”. This second case illustrates (as discussed above), the position of the central European countries in particular, and moreover those which have integrated the Eurozone. But it has also been the case of Romania since the crisis, albeit to a lesser extent.

#### c) Government as the dominant actor in industrial relations

The regulatory fragility of public authorities is reflected in the field of industrial relations. “Weak states” stand out in particular by their inability to act as mediators in arbitrating the competing interests and the balance of forces. The absence of state mediation in fact participates in perpetuating, rather than correcting a set of unbalanced forces through which the central and dominant position of governments manifests itself to the detriment of the weight and the relative autonomy of trade unions and employers. “Weak states” are far from being antithetical to governmental unilateralism or “strong government” in the game of tripartism, and in fact appear to be a condition of such strong government. By the weakness of its mediation, the state actually leaves the door open to governmental instrumentalisation of social dialogue under pressure from external forces. It could indeed be added that the expression of strong government in the industrial relations field is in fact closely correlated with the expression of a weak government in the political field. It is in fact to overcome this deficit of political legitimacy that a government may be tempted to seek support from the social partners. This echoes what several analyses have found concerning Western Europe, and in particular Mediterranean countries, which emphasize that the attempt to negotiate “social pacts” is primarily a strategy adopted by governments in relation to their own weakness in politics (Baccaro, Simoni, 2008; Avdagic, et al., 2011), and to institutional environments that limit scope for downward wage coordination.

It should be added that for the CEECs, this strategy of resorting to tripartite social dialogue has proved more promising and less risky for political actors than in the Mediterranean countries, given a combination of two factors: a weak state on the one hand, and the very peculiar and uneven distribution of powers and responsibilities between the actors of social dialogue on the other hand. The originality of this distribution is firmly rooted in the legacy of the communist regimes, in which the actors and their functions are resolutely separate. In line

with the path dependency theory, governments have inherited a dominant position that paved the way for a government-led tripartism. This position was then consolidated as a direct consequence of the inherited and long-lasting weakness of social actors (Kohl, Platzer, 2007; Spasova, Tomini, 2013). Sometimes lacking clear scope of action, clear positions and resources, unions and employers have in practice had limited ability to act as significant countervailing powers.

In the union camp, the transition was marked by the difficult conversion of organisations to the role of representing and defending the interests of employees. East European trade unionism very early on suffered from a twofold loss of electoral and political legitimacy. Afflicted by the “mechanical” decline of unionisation rates following waves of privatisations and job losses, unions have also suffered from strong politicisation and fragmentation. They have been further disadvantaged by their long-lasting blurred ideological positioning. It is characterised by low class identity, relative conversion to the precepts of neoliberalism, concerning notably individual responsibility, cooperation with management, etc. It should be noted that this latter trend, exemplified by Poland (Ost, 2000/2010), has varied between countries and organisations, with Romania being much more resistant than Bulgaria (Spasova, 2015).

Responding to a need for legitimation and/or organisational survival, unions immediately called for (Bulgaria) or accepted (Romania) tripartism. Ultimately, this game proved risky (see below), and entailed setbacks for two reasons. First, the unions failed to convert this new channel of expression into a means for directing reforms, in spite of their organisational resources and their relatively strong power of mobilisation in the public sphere. But second, they exposed themselves to being instrumentalised by governments (Meardi, 2011). The tripartite experience, especially in the early days of the transition, added a crisis of legitimacy concerning unions’ results (“output legitimacy”) on top of a crisis of electoral legitimacy (“input legitimacy”).<sup>6</sup> This helps to explain why unions have been bypassed by social movements (as has been strongly illustrated for Bulgaria during the recent crisis).

For their part, employers' organisations obviously did not exist under the previous regime, and today do not have the role allotted to them in West European economies. They are characterised by a reluctance to engage in social dialogue, especially when this involves negotiations. Also, upstream they refuse affiliation with the sectoral federations. While “fleeing” social dialogue, East European management instead invests heavily in lobbying through more direct channels of influence in order to shape public policy. Often these channels are more informal too. This strategy of fleeing regulatory authorities is due to foreign investors who have preferred to take advantage of institutional permissiveness countries/territories and their favourable strength vis-à-vis governments, and so have been actively involved in lobbying. It should be noted incidentally that the withdrawal of employers from collective bargaining plays a major role in the weakened nature of branch regulation, and therefore in the lack of coordination that characterises Eastern Europe’s industrial relations systems. In addition, this strategy by employers restricts the capabilities of

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<sup>6</sup> The concepts of “Input legitimacy” and “output legitimacy” are taken from F. Scharpft (2009).

trade unions and employers of empowerment to act as countervailing forces to governments instrumentalising tripartism.

To conclude this first part, Table 1 sets out a comparison of capitalisms in Europe, completing the typology of A. Nölke and A. Vliegenthart (2009). “Dependent capitalism” is distinguished here by greater external economic dependence, a “weak state”, a strategy of attractiveness and “low road” competitiveness. It is supported by strong institutional permissiveness (especially in employment relations) and correspondingly, a more instrumental and less regulatory form of tripartism.

**Table 1: A Typology of the Diversities of Capitalism Extended to Dependent Capitalism**

|   | Liberal capitalism (US)   | Coordinated capitalism <sup>7</sup> (continental Europe)   | Dependant Capitalism (Central and Eastern Europe, incl. Greece)   |
|---|---|--|---|
| Economic integration into globalisation   | Central integration<br>Exports of differentiated goods  | Central integration<br>Exports of differentiated goods   | Semi-peripheral or peripheral integration<br>Exports of standardised and semi-standardised goods  |
| Source of financing   | Capital markets   | Bank loans dominate, and capital markets   | Foreign bank loans  |
| Model of State regulation   | Neoliberal state<br><br>Coordination by the market<br><br>Targeted and strategic public investment<br><br>Weak redistribution       | Post-Keynesian state<br><br>Coordination by the market and the state<br>Public investment that is somewhat or a little strategic<br>Average to strong redistribution                   | Weak state<br><br>Coordination by the market and FDI<br><br>Public investment is very strategic<br><br>Weak redistribution  |
| Wage regulation, wage inequalities<br><br>Employment protection<br><br>Local management of social relations | Decentralised model of wage setting<br><br>Strong wage inequalities<br><br>Weak employment protection<br><br>Model of HR management | Coordinated model of wage setting, which is more and more decentralised<br><br>Employment protection limited to the primary segment<br><br>Model of management through social dialogue | Weak coordination and strong wage decentralisation, the importance of implicit and informal bargaining<br><br>Limited employment protection, importance of implicit or informal |

<sup>7</sup> For the sake of conciseness, the table only presents three models of capitalism. A fourth model of “Mediterranean capitalism” is in an intermediate position between coordinated and dependent capitalism. It could have been included.

|   |  |   |   |
|---|--|---|---|
|   |  |   | bargaining<br>Limited employment protection and low respect for regulation<br>Hybrid model (HR, social dialogue)  |
| Channels for expressing interests, social dialogue and the organisation of regulation | Political parties<br>Lobbying<br><br>No tripartism | Political parties<br><br>Macro-corporatism (consultation, bargaining) with relative state mediation<br><br>Compromise which is less and less balanced, and increasingly hard to negotiate | Political parties<br>Lobbying<br>International organisations<br><br>Tripartism with weak mediation by the state, strong political instrumentalisation<br><br>Unbalanced compromises and uncertain application |

## 2- The vicissitudes of tripartism under strong government influence

In contrast, the experiences of the Bulgarian and Romanian tripartism reflect distinct uses of this new arena for social dialogue, linked especially to the political context, to economic constraints, and the singularities of actors' behaviour. In Bulgaria, tripartism began early, and subsequently imposed itself more as a public tool of governance and political legitimacy. Instead, in Romania it emerged later, and has remained more limited in its functions, as well as being more confrontational.

### a) Tripartism at the first hour and dependent on political circumstances

In Bulgaria, the birth of tripartism in 1989 preceded the end of communism. This was original among the CEECs, with the exception of Hungary. But it follows from the strategy of the regime led by T. Zhivkov at the time, to thwart the rising power of the Podkrepa "union", despite the regime's explicit commitment to "European norms" (Ost, 2000/2010). Tripartism was rejected by Podkrepa, but took off during the 1990s with the coming to power of democratic forces (part of which also came from Podkrepa), and the creation of the "Permanent Commission for the Coordination of Interests" (1990-1992), renamed the "National Council for Tripartite Cooperation" in 1993. The reformed, former single union, KNSB, supported this initiative in the name of "consensus" and "partnership" (Iankova, 2000 ; Spasova, 2015). This initial tripartite body led to a "political agreement for the pacific transition towards democracy", in 1991. At the same time, three packages of socio-economic reforms were being defined at significant social cost.

This precocious institutionalisation of tripartism can be interpreted as being the result of two main factors: first, the strong electoral volatility which led governments to share responsibility for reforms with social partners, up until the crisis in 1996-97 (Bernaciak, 2013); and second, the limited weight of unions in the political game which included risks run by government by being involved in collective bargaining. The demands by unions in favour of tripartism, on the other hand, reflects political legitimisation strategies by the two major union confederations (CITUB and Podkrepa), as well as the cooperative behaviour which dominates Bulgarian unionism.

Compared to neighbouring countries (with the exception of Slovenia), Bulgarian tripartism is extensive in terms of its goals. The arena of consultation includes a wide range of issues: the government budget; changes to tax law as well as to work and social insurance; minimum levels of compulsory social insurance by profession and by sector; indicative wage changes and the setting of a minimum wage. The tripartite body is also more prone to include negotiation in its prerogatives than in a majority of neighbouring countries.<sup>8</sup> Social dialogue has been no less stormy, and unions have protested on several occasions (in 1994 and at greater length in 1996) by boycotting tripartism, or rejecting a tripartite pact put forward when the socialists returned to power in 1995. The financial crisis in 1996-1997 completely changed everything. Responding to the internal demands of the government, the establishment of a Financial Board under IMF control provided Prime Minister Kostov with the support to launch an austerity programme to which the social partners agreed, being convinced that there was no alternative. In 1997, the latter signed up to several agreements, including: i) the “Memorandum for priority joint activities” put forward by the “Union of Democratic Forces”, which launched the first major privatisation programme; and ii) the “Charter for Social Cooperation”, aimed at industrial peace during this phase of accelerated reforms and privatisation. In exchange, social partners were given guarantees of being able to participate in the revision of legislation. At that time, the social partners also supported informally the “social pact for stability and growth” (Toth, Neumann, 2004).

As an instrument of external macroeconomic control and discipline, the Financial Board directed tripartism early on to being a tool for responding to external pressures (Hyman, 2010). While it contributes to disciplining social partners, which have temporarily muted their deep differences, its impact on government has been more ambivalent. The latter has indeed used pressure from external constraints as a means of pulling out of obligations to social dialogue (Gradev, 2001), before proposing several tripartite agreements that were unacceptable and rejected by the social partners. This supports the idea that there are limits to the “transformation corporatism” put forward by E. Iankova (1997).

The much later institutionalization of tripartism in Romania in 1997 under the name of the Economic and Social Council can be inferred from a set of conditions which was the exact opposite to those prevailing in Bulgaria. These included: i) the permanence in power of former communists through until 1997 and political stability; ii) marked unionism known for

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<sup>8</sup> This was particularly the case of the fixing of public sector wages, a process which has been characterised more by “quasi-bargaining”, compared to “limited cooperation” found in Romania (Toth, Neumann, 2004).

its culture of protest, a lower decline in participation rate and a fairly strong union mobilisation compared to the CEEC region (at least within certain strategic public sectors; and iii) a period that was characterised by the delay of economic reforms, which reflected not only alliances at company level (as in Bulgaria) but also an implicit socio-political compromise whereby the authorities committed to limiting job destruction, and ensuring “high” compensation for persons made redundant (Varga, 2103).

In Romania, tripartism was therefore not implemented until the first, delayed real change in power. This too opened the way to an ambitious and painful reform programme between 1997 and 2000.

#### b) Tripartism or Western Europe’s Recipe for Preparing for EMU Membership

The negotiations which began in 1999 over the CEEC’s membership of the European Union gave the EU an opportunity to promote tripartite politics actively. This was promoted at the time with reference to the “social pacts” operating in Italy, Spain and Ireland during the 1990s, as a socially, more-acceptable method for ensuring monetary and fiscal convergence and so helping these countries (sometimes *in extremis*) to meet the Maastricht criteria (Toth, Neumann, 2004). In the CEECs, such Community support for tripartism re-centred on its legitimisation functions of reforms was favourably welcomed by domestic actors, and so facilitated its application. This success, at least from a formal point of view, was also linked to the structuring role of financial incentives. These came via the distribution of EU structural funds, conditional on union-employer joint management of EU programmes. The incentives operated as a decisive force of conviction in the proliferation of tripartite consultative bodies “at all levels” of government – running from ministries down to regions and local communes. It was a trend exemplified in Bulgaria.

During this period, Bulgaria and Romania also pursued a form of tripartism that was more active and regulatory, if often intermittent, when compared to other countries of the region (with the exception of Slovenia). Elsewhere macroeconomic social dialogue did not function for a long time (Meardi, 2011).

In Bulgaria, the period in question was marked by the failure to obtain a collective bargaining agreement in 2002. But social dialogue was renewed to prepare for European integration, and the harmonisation of labour legislation (completed in 2006), as well as to organise the management of structural funds. This led to the signing of a new social pact in 2007.

Romania has also switched backwards and forwards between signing agreements and failures in tripartism. In 2000, the Cartel Alfa union challenged the tripartite agreement, actually gaining support from the EU at the time, exceptionally, as the EU was critical of the modalities of bargaining. This was followed by the signing of social pacts in 2001 and 2002, relating to wages. These pacts preceded a new impasse in 2004, followed in turn by a “social stability pact” signed the same year.

In 2003, the long-term battle which concerned the Labour Code also illustrated how the tripartite forum for the negotiation of reform was overwhelmed by a wider political game that

explicitly included intervention by outside forces. The reform in train at the time sought to deregulate the labour market, drawing on arguments of Community harmonisation. The negotiations were characterised by two opposing forces: on the one hand, strong union resistance that had the support of the left-wing of the Social Democratic Party, but also the majority of national employers' organisations, representatives of large companies still receiving direct or indirect support from the public authority (Trif, 2008); on the other hand, there was new and ever more-pressing interference in public policy debates by external actors, including the IMF, the WB and the American Chamber of Commerce. Romania's national social partners were successful during the negotiations, but as soon as the new Labour Code was signed, the outside actors went back on the offensive, calling repeatedly for deregulation. Their demands were quickly echoed by a neoliberal coalition of SME entrepreneurs and conservatives (Ban, 2013, p.24). In this situation, the IMF used the financial assistance agreement signed with Romania (in 2004) to include the deregulation of the labour market among one of its many conditions... before mandating the World Bank to draft a legislative proposal and to press the government to ratify it before the end of the Standby Agreement. Similarly, the Council of Foreign Investors militated in 2005 to suppress the new Labour Code's legal obligation of employers to negotiate with unions or employee representatives (Trif, 2014, p.3). The coming to power of a new Conservative government in 2005 initially gave assurances to international lending organisations before these promises were countered by trade union mobilisation, which actually forced the government to negotiate a new Labour Code that is relatively favourable to workers, in 2006 (Pilat, 2007).<sup>9</sup> Here tripartism merely ratified a controversial and contested reform that was negotiated outside the usual channels of social dialogue.

After these years of intermittent tripartism and in the euphoria of strong growth and accession to the EU, tripartism is faring better in Bulgaria and Romania than elsewhere in the region (except Slovenia). In Bulgaria, it led to an annual Social Pact (2007), aimed at facilitating EU integration and supporting growth. In Romania, tripartism has helped create a longer term social pact for the years 2007-2010. This pact is oriented towards supporting competitiveness.

### c) The crisis or tripartism to the rescue... and its challenges

The crisis led the EU to launch a new appeal for "tripartism". Tripartite social dialogue has for long been presented as the most appropriate instrument for defining negotiated measures of macroeconomic stabilisation and structural reform (Toth, Neumann, 2004). In times of crisis, it is seen as the surest way of neutralising union resistance to difficult adjustments. In the Mediterranean countries, social partners have however resisted participating in this instrumentalised dialogue, favouring bipartism instead (Molina, 2014). In central Europe, governments mostly opted for a return to unilateralism (Méardi, 2011). In South-eastern Europe by contrast, in Bulgaria first and to a lesser extent in Romania, tripartism has been

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<sup>9</sup> The unions used the working time Directive to counter the project of the employers, adopted by the new political majority in 2005. It aimed to raise the maximum ceiling of weekly working time to 60 hours (compared to 48 in the European Directive).

strengthened, though with limited regulatory reach. This is a further originality of these countries.

This more continuous use of tripartism can be inferred from a range of internal and external factors, including: i) the scale of the crisis (a fall in growth of nearly 10 percentage points in 2009), but above all major losses in competitiveness (partly linked to dependency and a weak state); ii) a deficit in government legitimacy for undertaking difficult reforms that are partly imposed (especially in Romania) and linked to this the risks of political instability due to the accelerated fight against corruption (under disciplinary pressure by the EU); iii) organic links between certain social partners and governments which are not too loose and which favour cooperation strategies; and iv) for Romania in particular, stronger union mobilisation (than in other countries in the region) which has limited efforts to bypass social dialogue, at least temporarily (Glassner, 2014).

In Bulgaria, the strong recession precipitated cooperation and led to the signature of an anti-crisis pact in 2010. The social partners were the initiators of 59 “anti-crisis” measures, and so clearly showed themselves to be a “force for proposals”. Invoking outside pressures, the government nonetheless went back on its signature: firstly in 2010 with the forced introduction of a measure revising payment of sick pay during the first three days of sick leave, and secondly in 2011, when it raised the age of retirement in an authoritarian way (Delteil, 2103a). The government’s strategy of playing on macroeconomic constraints was further reinforced by a parliamentary vote on the “Financial Stability Pact” (of the Fiscal Board), in the summer of 2011. This voluntary acceptance of outside supervision has raised fiscal discipline to the level of dogma, beyond requirements set by the EU. It limits all tripartite bargaining that is accompanied by social gains.<sup>10</sup>

Tripartism resurfaced in 2012. But it should be seen above all as a strategy of cross-legitimation by politicians and unionists, with no regulatory consistency. Under circumstances of great socio-political adversity, the actors of tripartism signed the “First Job” agreement in June that year, as a response to the alarming rising in youth unemployment. This was an agreement in principle, on a consensual issue, aimed at giving some signs if not real guarantees vis-à-vis growing social unrest that was overwhelming the union movement. The tripartite game was reactivated in March 2013, when several propositions were formulated by social partners for the attention of the (interim) government of Marin Raikov (an independent), with the support given by the social partners to the emergency measures undertaken.<sup>11</sup>

In contrast to the employers’ confederations, the unions have no powerful informal channels of influence at their disposal. For the latter, tripartism is clearly an ambivalent, high risk game. It allows them to position themselves as “forces for proposals” and so gain legitimacy. But actually tripartism is only marginally receptive to their propositions, as well as being an arena largely managed by the authorities. Indeed, tripartism is considered by some as a

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<sup>10</sup> Initiated by the Borissov government, the pact puts a ceiling on public spending of 40% of GDP, and limits public deficits and debt at respectively 2% and 40% of GDP.

<sup>11</sup> <http://www.eurofound.europa.eu/eiro/2013/04/articles/bg1304031i.htm>

“second executive power”, in the words of K. Petkov, the former leader of the KNCB and more recently of the United Labour Block party.

These risks of instrumentalisation have been greatly aggravated by the crisis. Yet far from being impassive, the social partners have asserted two new strategies, which incidentally challenge the unions’ initial “complicity”. One after the other, they have quit the CNCT forum, to protest against the government’s political unilateralism. The unions exit from tripartism, combined with threats of strikes and demonstrations, is mirrored by the employers. They used this exit option to react to the government’s unilateral decision to raise employer social security contributions in October 2010, and impose a new regulation concerning transparency in April 2013 (Delteil, 2013a). By haggling over their participation in tripartism, the unions and the employers have also militated for full and clear recognition of bipartism. In November 2010, they signed two bipartite agreements on tele-working and home working, which are the basis of new legislation in the field. Subsequently, they sent a joint letter in early 2012 to the government, demanding the automatic transposition of bipartite agreements into law (after government consent). The letter calls on intensified tripartite consultation (one consultation per month) and an enlargement of consultations to include proposals put forward by law-makers (Bernaciak, 2013).

In Romania, the tripartism of the crisis has shown itself to be considerably more conflictual, linked to the toughness (unparalleled in the region) of reforms undertaken under external constraints, as well as to the relatively strong mobilisation of the unions. Cooperation only took place right at the beginning of the crisis, with the negotiation of an “anti-crisis” package in January 2009. As in Bulgaria, it incidentally revealed the recent conversion of the social partners to being “forces for proposals”, with the unions for their part putting forward 400 measures.

As of mid-2009, in the name of the crisis and under external pressure, the government challenged the tripartite “pact for 2008-2014”, which set wage levels in particular. This break with the pact found immediate support in the first “Memorandum of Understanding” of the IMF and the EU in 2009, complementing financial assistance agreements. These imperative documents do indeed challenge the pay rises set out in 2009 (5%) for the public sector, if not compensated by an equivalent cut in spending for civil servant employment, as well as the scrapping of the annual 13<sup>th</sup> month wage bonus, the introduction of a rule for replacing one job out of seven, and even the formulation of a unitary law on wages in the public sector (all measures whose vote in parliament is subject to approval by the IMF and the European Commission; Delteil, 2013b). In the autumn of 2009, these measures provoked the largest union mobilisation since 1989. More than 700,000 public employees went on strike, but to no avail.

In June 2010, the break of the government with the social partners was consumed once more, as the first anti-crisis package was abandoned. A second package was introduced which included strong cuts in social benefits, though the unions did manage to protect measures concerning temporary lay-offs.

The government led by the Liberal Democrat Emil Boc at first tried to use tripartism to reform the Labour Code and the Social Dialogue Code, in part reflecting the relative power of union mobilisation. This was done, however, by circumscribing the terms of tripartism using an expeditious consultation process which gave the social partners only one month to react. Nevertheless, the government quickly dropped consultation and went on to push through change, drawing on unusual procedures to amend organic laws. External factors surely played a part in this turnaround. Taken together, these forces provided strong external justification for the government, in the wake of injunctions by international lenders (led by the IMF and the EU), which in a succession of “Memorandums of Understanding” called for labour market flexibility and wage caps. These demands went on to include the “Euro Plus Pact” to which Romania subscribed voluntarily in March 2011, as well as repeated demands by the Council of Foreign Investors and the American Chamber of Commerce (Am Cham). These two organisations claim to represent three quarters of all FDI in the country, which also contribute one third of GDP. They have lobbied very strongly and successfully for greater flexibility in labour market legislation. They brought together political pressure (led by the US Embassy) and legal expertise, and have influenced drafting of the new Labour Code – down to the last comma – put to the legislature by the centre-right coalition.<sup>12</sup>

Indeed, legislative changes have led to an unprecedented dismantling of the Romanian social model, whose deregulatory effects concern the industrial relations system in particular. Inter-professional collective bargaining, the principle of extending collective agreements and sectoral regulations have all been challenged. The institutional resources of unions have been strongly diminished with the tightening of criteria allowing workplace unionisation, and the reduction of trade union rights (Delteil, 2013b). The statutes of the tripartite council have been profoundly revised in parallel. The composition of the council has been reviewed along the lines of the European Economic and Social Council, in which the representatives of civil society have replaced those of government. A sign of the explicit and aggressive nature of North American lobbying is that Am Cham has reiterated its demands to be represented in this new council, though it has not succeeded. Furthermore, the status of the council has been limited to being purely consultative, including for setting the minimum wage which was previously negotiated. This mirrors reforms in Slovakia in 2004, a country that is presented by the OECD as a model of labour market regulation.

With their backs to the wall, Romania’s unions have revised their strategies to maintain influence, and have expanded their means of action, including: repeated threats to withdraw from tripartism; occasional alliances of convenience with the employers’ organisations to oppose the disbanding of the system of industrial relations, leading both sets of social partners to write “joint letters” to the government; and recourse to the ILO as an external supervisory body (reflecting the same strategy used several months earlier by Hungarian unions when

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<sup>12</sup> See in particular the White Papers of the Council of Foreign Investors (2007 and 2009), and the recommendations made by the American Chamber of Commerce at the start of 2009. As part of the preparation of the bill on the Labour Code, these two organisations claimed to have drawn on a team of 30 experts (<http://m.amcham.ro/index.html/articles?articleID=618>).

faced with the dismembered of its own Labour Code). The Technical Memorandums of the Geneva-based organisation have stressed several areas in which legislative changes to the Labour Code do not conform to ILO and EU standards. The ILO has also exercised some pressure not just on the government, but also on the EU. The latter, in its role of international lender, has in turn made some recommendations that are resolutely hostile to the reinforcement of the regulatory capacity of industrial relations. The best example here is the opposition by the EU to the reintroduction of the extension mechanism for collective agreements.

In 2012, the return of the Social Democrats to power, led by Victor Ponta, was not followed by their honouring an election pledge to overturn the latest reforms and to correct the high degree of deregulation. For their part, the unions have not benefited from their new strategies for action. They have suffered not only from the loss of institutional resources, but have also lost membership (following boom years in 2000-2008 when membership was rising). Moreover, they have been discredited among the population, especially due to allegations of serial corruption (Trif, 2014).

Romanian tripartism has been instrumentalised and reduced in its regulatory capacities. It now clearly shows how peak-level social dialogue is less and less an instrument for converting the power of mobilisation (which is relatively high when compared to neighbouring countries) into a power of influence. The erosion of the power of social actors is less a matter of the erosion of “power of association” than the erosion of “structural (economic) power”, to use the words of E.O. Wright (2000). This tendency goes hand-in-hand with the growing power of external forces and capital. It is also linked to two other contextual factors: i) the diversion or “confiscation” of popular protest by corruption scandals and other political machinations to the detriment of defence of the social model; and ii) the rise of possibilities of emigrating to Germany, which tends to reinforce “exit” strategies, rather than “voice”.

### **Conclusion: “Dependent Capitalisms” as a Laboratory of “Post-Democratic” Tripartism**

The vicissitudes of Bulgarian and Romanian tripartism mirror those of the Mediterranean economies in numerous ways: the weak institutionalisation of social dialogue, driven by political circumstances, and operating within a context marked by strong external forces; the assertion of “demobilised macro-corporatism” (Baccaro, Howell, 2010) in which demobilisation is linked to the decline of legitimacy and bargaining power of social forces and especially labour; and lastly the strategies of “weak governments” (Baccaro, Simoni, 2008) in the political sphere to ensure themselves a complementary source of legitimacy, and “extra-parliamentary support for conducting reforms” (Avdagic et al., 2011, 9).

The success of South-East European tripartism is however unequalled in terms of the marginalisation and/or instrumentalisation of social dialogue. As this article has explained, South-East European governments have been able both to benefit from a dominant position in the field of industrial relations and from the withdrawal of the State from all functions capable of mediating and correcting the inequality of interests, as well as the weak negotiating power

of the unions. As paragons of “dependent capitalisms”, the Bulgarian and Romanian governments have used external support by international institutions and foreign investors to trim the regulatory dimension of tripartism. This point is illustrated not only by “compromises” with weak legitimacy, “snatched” from unions in the name of external constraints, or conceded by social partners struggling to survive. It also echoes the “dead letter regime” (Falkner, Treib, 2007), in the deficit of applying or breaking procedural rules and negotiated agreements.

The originality of this instrumental form of tripartism can be viewed in the first instance as an additional proof of the limits of social Europeanisation. It may also, in a manner that is more complementary than contradictory in my opinion, reflect a form of “second generation” Europeanisation, referring to the compatibility (if not convergence) of the CEECs with the new Community model of social dialogue itself, now freed from the historical model of West European macro-corporatism.

This shift in the model of social dialogue promoted by the EU can be identified in the official and grey literature of the European Union. As underlined by Martin and Cristescu-Martin (2004), “the language of interest reconciliation of the early 1990s evolved into the EU’s characteristic language of social partnership in the late 1990s” (p. 632). Henceforth, such dialogue is dominated by a creed managerialism, based more on consultation than negotiation. As exemplifying this form of “soft” dialogue, tripartism is highly promoted by the EU as a “forum of consultation on public policy”,<sup>13</sup> drawing on “partnership for change”,<sup>14</sup> and defined as a “flexible, efficient, non-confrontational means for making adjustments and overcoming the obstacles to modernisation”.<sup>15</sup> This cooperative and instrumental interpretation of social dialogue by the EU, which incidentally ignores any possibility of conflict and confrontation, has asserted itself more explicitly with the crisis: “In many member states, there is a need for greater involvement of national parliaments, social partners and civil society in the process in order to secure public understanding and acceptance of necessary reforms” (COM, 2013, p.5).<sup>16</sup> When defined like this, tripartism is clearly an instrument facilitating the spread of neoliberalism (Ost, 2011).

This Community ambition does make it possible to qualify strongly the theory that the East European model of industrial relations is converging on the US model, and is therefore becoming incompatible with the “EU system” as set out by S. Crowley (2004). Through its strongly institutionalised dimension, along with its instrumentalist and minimalist functioning, the East European model of social dialogue has revealed itself to be converging strongly on the new paradigm of social dialogue promoted (more or less explicitly) by the European Union, as described above. From a chronological point of view, the CEECs may

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<sup>13</sup> European Commission (2014), “Industrial Relations in Europe”, p. 72.

<sup>14</sup> European Commission (2005), “Restructuring and employment - Anticipating and accompanying restructuring in order to develop employment: the role of the European Union” COM/2005/, 31 March, p10.

<sup>15</sup> European Commission (2002), “The European social dialogue, a force for innovation and change”, COM/2002/0341 final, 26 June.

<sup>16</sup> Communication de la Commission européenne, COM (2013), Annual Survey Growth 2014, SWD (800),13.11.2013.

moreover be considered as forerunners – if not as a laboratory – for asserting this latter model. This is strongly consistent with the “low road” strategy to competitiveness that was initially specific to the CEECs. Far from being neutral, EU actions have supported this movement to a “low road” model in its new central and eastern territories. This is borne out by the following areas of EU arbitration: on the one hand, the loosening of EU conditionality imposed on the CEECs in making their industrial relations systems conform to the Community *acquis* (Pilat, 2008); and the recent non-intervention by the EU in the face of violations of rules governing tripartism (or set in the EU Directives) by a number of East European governments which have been stressing the urgency of reforms. On the other hand, the decisive support of the EU, via the use of structural funds, for the multiplication of tripartite bodies and the promotion of a union culture oriented towards partnership. The rules for attributing EU funds are conditional to the participation of unions and employer organisations in the joint management of programmes. These rules have therefore supported the shift of social dialogue to being more oriented towards “partnership”. Given the context in which the unions have to face an ongoing erosion of their own resources, EU funds as a financial tool have participated in moving union action towards “project management” activities based around the themes of consensual public policies. These are both very time consuming and lucrative, and so draw unions away from the demands of collective action.

Lastly, it is not inappropriate to underline the risks which this conversion/limitation of social dialogue in its instrumentalised form may take, given the worsening crisis of political legitimacy in Europe that is following on from the neoliberal management of the economic crisis. This new form of social dialogue is likely to reinforce the pincer movement squeezing politics and which stems from post-democratic governance (Crouch, 2004) on the one hand, and nationalist/xenophobic populism on the other hand.

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