

Chapter 5. Structuring of Trade Unions

This chapter examines the organisational phase of trade union formation. Organisation encompasses the primary phase of union development when choices are made in terms of identity, agenda, structure and resources, as well as in terms of the types of relationships with employers and approaches to conflicts (subchapter 3.4.2.). This primary formative phase is of particular interest when a conflict arises in an enterprise. During conflicts it becomes visible which side is taken and which interests are emphasised by union leadership. Cases of unions at the domestically-owned L'viv Bus Plant (LAZy) and foreign-owned Lafarge Mykolaivcement offer examples of such situations.

Each of the two subchapters below (5.1 and 5.2) starts with a short introductory background to the enterprise. Next, union choices within different dimensions of union formation (as discussed in the conceptual approach in the Chapter III) are highlighted throughout the description of the conflict, its development and workers' and unions' strategy. The narrative stories of the trade unions at the two enterprises are discussed, and analytical conclusions are drawn at the end of the chapter (subchapter 5.3).

5.1. *L'viv bus plant*

5.1.1. Background of LAZy

The formerly largest Ukrainian bus producer L'viv bus plant (LAZy) was hit hard by the economic decline of the 1990s. Its output has declined from 13,000 buses assembled yearly during the 1980s to only 519 units assembled in 2000 (LAZy ITU, position paper; City Transport Group 2008). In 2001 the plant was privatised by the Russian Sil-Avto (Charnomsky 2010, Vgolos, 30 June 2009;), but the privatisation of the plant has not led to any increases in its output. In 2003, the Ukrainian Cabinet of Ministers decreed investments and tax relief of around 90 million UAH, then equivalent to around \$18 million (Cabinet of Ministers 2003). Following tax relief and government investments, the enterprise was declared insolvent and in the meantime, the number of its employees decreased from 15,000 to 900 workers in 2009 (Goncharov 2009, Khuditski 2009).

Questions remain about the legitimacy of this insolvency claim (Koval, LAZy RUC's president, interview). Firstly, in early 2004 the act of privatisation was declared to be illegal by the court, because the plant was privatised under non-transparent conditions for a lower value than offered by the competitors of Sil-Avto (ibid; Vgolos, 30 June,

2009). However, this did not lead to a return of the plant to state ownership, because the State Property Fund of Ukraine (SPFU) demanded that the privatisation's cancellation be revoked (Prysyazhnyuk, LAZy ITU's president, interview; Charnomsky 2010). The positions taken by the SPFU and Cabinet of Ministers granted the owner access to state money, tax privileges and further operation in defiance of the court's decisions. Secondly, in spite of continuing to supply buses and earn profits, payments were not made to the plant's account, but were made to other bank accounts (Koval, LAZy's RUC's president, interview). This way of managing an enterprise resembled a well-known rent-seeking strategy, which envisages 'intentional' insolvency of the plant in public with the money being taken out of the plant.⁴⁹ When LAZy's debts amounted to Hr 317 million (equivalent to approximately \$63 million) in 2006, the Limited Liability Company LAZy, as it was known at the point of this research, was registered for another year (ibid).

The background of the enterprise, as described above, created very specific conditions for the reorganisation of the plant's trade union. The trade union was established at this plant, shortly after construction was completed in 1945 (LAZy 2010). After privatisation in 2001 the reformed trade union committee (RUC) remained in existence at the plant. Later on, however, another trade union – a free trade union (ITU) - was established.

5.1.2. Conflict at LAZy and union developments

In April 2007, LAZy stopped paying wages. When the RUC did not react, workers turned to pickets and protest outside the RUC. Following these protests, management paid approximately two-thirds of the wage debts and protests stopped (Koval, LAZy RUC's president, interview; workers' picket, participant observation).

One year later, in April 2008, the enterprise again ceased the payment of wages in full, even though buses continued to be sold. Also, the owner stopped making obligatory contributions to pension funds (Koval, LAZy RUC's president, interview; Pak, the Chair of LAZy Veterans' Association, personal communication). Meanwhile, wage debts reached Hr 7 million (Khuditski 2009) (then equivalent to around USD 1.4 million) and the financial insolvency of the enterprise was registered. However, according to the investigations of both the L'viv regional labour inspection and prosecutor, management

⁴⁹ The rent-seeking business strategy included the following: the owner kept confirming supply agreements, receiving advanced payments for the orders and afterwards declared bankruptcy. Every time bankruptcy was repeatedly announced, LAZy was re-registered into another enterprise (Open Joint Stock Company Pasavtoprom, then Closed Joint Stock Company L'viv bus plant and then Plant of the communal transport ZKT). With each re-registration of the enterprise a part of the debt was cancelled, then the phase of supply agreements and advanced payments started all over again.

at the plant had made profits, but did not pay wages at that point in time intentionally (Gordienko and Golubinka 2009, 1+1 TV TCH-news, 17 December 2008).⁵⁰

Simultaneously, management started to conduct layoffs. In order to avoid paying severance, management pressured workers to quit voluntarily⁵¹ in exchange for the payment of wage debts and the turning in of work record books that are necessary for future job applications (workers' picket, participant observation).

In spite of the accumulating wage debts and lay-offs, the RUC's leadership did not negotiate any of these issues with management (Koval, LAZy RUC's president, interview). Workers wanted to go on strike, but then LAZy RUC's president, Krasnevych, and management jointly promised that wages debts would be paid soon. In response to these promise workers did not strike (ibid, workers' picket, participant observation).

In December 2008 management issued a decree to idle the plant for the upcoming forty days and sent workers home on 'administrative leave'.⁵² Wages still had not been paid to workers since April 2008. The announcement of the 40-day enterprise shutdown was approved by the RUC. The formal union's approval of the shutdown granted management the legal grounds to close the plant and deny workers entrance to it. Although the law dictates that during administrative leave an enterprise must pay two-thirds of a worker's wages for the duration of the shutdown, management was not going to pay even those two-thirds, and RUC did not negotiate the conditions of the shutdown and lay-offs (Koval, LAZy RUC's president, interview).

Workers disagreed with the management's decree and now they also disagreed with the RUC. Thus they arrived for work the next day, but were denied entry to the plant (1+1 TV TCH-news, 12 December 2009; Koval, LAZy RUC's president, interview; Prysyazhnyuk, LAZy ITU's president, interview). RUC's leadership refused to show up and as a result some workers started to compile lists of the acts in violation of workers' rights on their own (Koval, LAZy RUC's president, interview). Through taking this action workers began to unite outside the RUC.

⁵⁰ In particular, according to the L'viv Prosecutor, in 2008, LAZ paid around Hr 68 million as if for the rent of an administrative building to the unknown company "Liga Partneriv" (1+1 TV TCH-news, 17 December 2008; Inter TV-news, 30 March 2009).

⁵¹ According to the Ukrainian law, if a worker quits voluntarily he or she does not have a right to severance pay. In addition, a worker can only apply for state unemployment benefits three months after having quit his or her job.

⁵² 'Administrative leave' means that workers officially remain employed by an enterprise, but do not work. Such administrative leave can last up to several months. During administrative leave an enterprise must pay two-thirds of basic wage scale without any add-on payments for the duration of the shutdown. Also, during administrative leave no contributions to social insurance funds including pension contributions are paid.

Changes in RUC's leadership and the relationships with workers

As Krasnevych refused to negotiate over any of the issues with management, the relations between workers and RUC's leadership deteriorated. Workers were already dissatisfied with the RUC prior to this particular conflict:

"I work in the [enterprise-based] library, where, with the help of two air heaters, the temperature reaches +4 degrees [...]. I went earlier to the trade union about this issue and was told by the union I had the full right to quit. I know which rights I have. Is that a way for the union to promote my rights? Meanwhile, the monastery building, where the library is located, has not been heated for the last ten years [...]" (workers' picket, participant observation).

Yet it was only when the above conflict over wages escalated, that workers started to express their outrage against the RUC openly and explicitly (Koval, LAZY RUC's president, interview). For the first time regarding such an urgent manner, workers started to pressure the RUC to go to management and demand that unpaid wages be back-paid and work resumed. Also, workers pressured Krasnevych to file a labour dispute with the National Service of Mediation and Reconciliation (NSMR) (ibid). This was the moment that RUC's leadership lost control over workers' anger (workers had previously followed the union leadership, by not going on strike, after having been told by the union that wage debts would soon be paid). Pressure on Krasnevych grew.

Finally, Krasnevych registered the union-management dispute with the NSMR. The RUC demanded that wage debts be paid; index wages and wage debts calculated in line with the inflation rate; the increasing legally set minimum wage be honoured; and pay debts owed by the employer to pension funds. The NSMR registered the wages-related demands, but refused to register the one relating to pension contributions. "The NSMR argued that the union had no legal grounds to address pension-related issues." (Lysak, former LAZY RUC's president, personal communication) and should be registered by the pension fund itself. Workers informed the NSMR that the pension fund had not raised this issue since 2006, when the owner had stopped transferring pension contributions.⁵³ Nevertheless, the RUC's leadership withdrew the pension contributions demand, as required by the NSMR.

The conflict over wages resulted in workers' wild-cat protests, which lasted almost the entire following year (Koval, LAZY RUC's president, interview). "It started in July last year [2008]. If the union [had] protected people at that point in time, had taken the side of workers, it would not have cost us one year of pickets and protest actions [...]"

⁵³ In a similar manner, when one of the workers went to court to demand the payment of his pension contributions, the court rejected his demand on the grounds that the court was already swamped with wage debt claims and, therefore, the consideration of all the other issues (including pensions) had to be postponed (Pak, informal conversation).

(workers' picket, participant observation). Under growing pressure from the workers Krasnevych retired in January 2009.

A newly elected RUC President, Lysak, took a more active position, which looked promising in terms of bringing the union leadership and workers closer again. In view of Lysak's involvement in workers' protests, management could not rely on Lysak's union to support some of management's actions. As the RUC no longer seemed helpful to management in controlling workers and formally approving managerial decrees for the latter to be legal (Koval, LAZy RUC's president, interview; Gordienko and Golubinka 2009), soon after his election, Lysak was denied access to the plant.

Surprisingly, the activities of Lysak came under attack from the Oblast Committee of the Trade Union of the Automobile and Agricultural Machine Building Industry of Ukraine (AAMB) (LAZy RUC is structurally a primary organisation of the AAMB). The president of the AAMB Oblast Committee, Zakhvatkina, who was recognised as the 'boss' of the LAZy's RUC (as Koval, LAZy RUC's president had called her) started to publicly discredit Lysak:

"Once the union leadership changed, the [reformed] union slowly took off. But, shortly afterwards the president of the oblast union started to interfere and create various obstacles to the [reformed] union. She [Zakhvatkina] came over several times and people were angry at her [...] Because she just poses obstacles to people [...] She does everything not only in order to not help workers, but vice versa in order to damage them" (workers' picket, participant observation).

In public, Zakhvatkina continued to state elsewhere that there were no problems at LAZy. She prohibited the lawyer of the Oblast Committee to consult Lysak on any matters,⁵⁴ despite the fact that the lawyer was paid from the membership dues of local union committees, including the LAZy's RUC. When she failed to keep the situation under control, she claimed that the RUC no longer had any members at LAZy. This claim was obviously incorrect. LAZy RUC's reporting and election meetings at different shops had taken place shortly before and all records of these meetings had been sent to Zakhvatkina (Koval, LAZy RUC's president, interview). In response to workers' allegations, Zakhvatkina helped management establish another union at LAZy with the director of the press-service, Mulyak, elected as union president (ibid, Prysyazhnyuk, LAZy ITU's president, interview).

Workers also understood that the Oblast Committee supported management: "a subordinate union is a dependent union. It is the way I see it" (ibid). At the members'

⁵⁴ Union experts, including union lawyers consulting RUCs, are employed by the regional (oblast) or national committees of trade unions. The practice has always been that enterprise-based unions would provide the legal assistance to workers with the help of these regionally employed staff workers. The denial of the lawyer's services to the LAZy enterprise-based RUC meant that the union was not in a position to assist workers.

meeting in June 2009, the RUC declared its mistrust of Zakhvatkina, accusing her of supporting plant management. After workers declared their mistrust of Zakhvatkina, the RUC's leadership and Lysak turned to look for support from the higher-level, AAMB central union committee:

"We protect [workers] as we can but within the frontiers of the rules and laws. We cannot act otherwise. If we just had more support from the higher level bodies – not authorities, but from our higher union bodies, if at least one representative from Kyiv [the headquarters of the AAMB] came here to the plant and talked to the union and its members [...] Then it would be better" (Lysak, former LAZy RUC's president, personal communication).

LAZy workers wrote to the president of the AAMB Central Committee, Dudnyk:

"Zakhvatkina, instead of helping the labour collective, she, on the contrary, shielded the plant owner Churkin. At the joint meetings of our representatives with the management of the L'viv oblast state administration she kept repeating that the wages were paid, even though the wages payments were minimal and workers were forced to get them through courts [...] Zakhvatkina's actions were directed not to defend trade union members but against them – to support the enterprise owner and management, who are to be blamed for the difficult situation at our plant" (ZKT [currently LAZy] RUC's letter to the president of the AAMB Central Committee, Vasyl Dudnyk, dated 18 June 2009).

That support from the AAMB was not forthcoming. Dudnyk supported Zakhvatkina without going into any details of the conflict between the Oblast Committee and LAZy RUC (Koval, LAZy RUC's president, interview; Dudnyk, AAMB's president, personal communication). Finding himself unable to elicit any support from the sectoral union, Lysak left shortly after his election (ibid). The newly-elected president was a Mr. Koval, a worker who had actively participated in the protests.

The establishment of the independent trade union at LAZy

Meanwhile, the protests in front of the plant building were conducted in an organised manner compared to the earlier spontaneous protest outburst by workers. As leaders from amongst the workers themselves started to appear, RUC's ignorance of workers' concerns shaped the incentive to establish a new trade union. This newly established trade union (ITU) was identified by workers as 'free' (Prysyazhnyuk, LAZy ITU's president, interview; workers pickets, participant observation). 'Free' referred to independence from management, stressing thereby the opposition to the reformed union under Krasnevych's leadership (ibid). Later on, as Krasnevych resigned, the ITU and RUC developed a joint action plan.

Despite the fact that the ITU was quite new and immature, workers saw itself having a more active involvement in the area of workers' representation: "[...] they make every effort [to fight for workers' rights]. And I feel really sorry for the person who chairs the [independent] union. This work drives her sick!" (workers' picket, participant observation). By that point in time workers had sustained pickets in front of the authorities' buildings for a full year (April 2008 through April 2009), but militancy was

starting to decline. Workers started to quit the plant and were looking for other sources of income. As one picket participant put it in April 2009:

"I am forced to quit as I have no strength left any longer to attend the pickets. They [the management] force us to sign the voluntary termination of employment [...] And it drives one to despair. I cannot fight any more. There are no shoes left to come here [...] I would sweep the streets in order to earn at least one kopek. You know, we have been coming here since July last year [2008] and we struggle desperately. But, still without any achievements!" (workers' picket, participant observation).

Not only did workers believe that the plant would be shut down soon, but they also were de-mobilised.

Politicisation of the conflict

As workers started to self-organise in front of the idle plant in December 2007, with the support of the ITU (and later on, that of the RUC), some workers submitted their individual lawsuits against management. Many of the workers began to win court cases, which obliged plant management to pay wage debts. However, they still did not receive their owed wages, because officially the plant was insolvent. Thus, no significant improvements were seen using these channels of private legal recourse either. When it became clear that the individual legal route to dispute settlement was limited, workers decided to target the authorities. Workers demanded that the state authorities charge the owner with numerous violations of labour law and help enforce the previous court decisions (Sokolov, the president of the L'viv Confederation of Free Trade Unions, interview; workers' picket, participant observation). However, the regional authorities remained indifferent to workers' protests:

"[...] that's why we are here. It is not only that the authorities do not react, but they don't want to meet with us. We asked for a meeting with the enterprise management, authorities, unions, workers, and media [...] Only once did they finally schedule such a meeting in the building of the city council. But, the meeting has never taken place. The authorities just forget. The authorities do not want to do anything to punish the one who's violating the law [...] And everything is just taken as it is" (workers' picket, participant observation).

As one of the protest participants put it: "[...] all these protests that we go on have no effect. The authorities are not supportive of us. [...] How many decisions and verdicts on wages repayment were passed already [without being enforced]?" (ibid). The labour conflict was politicised.

It was only after workers blocked a central city road that the regional authorities engaged in dialogue with the workers (Pak, the Chair of the Veterans' Association of LAZy, personal communication; workers' picket, participant observation). The regional administration recognised its enforcement role in public, but did not address its rule-enforcing capacity: "if something is violating the law, people can go to court and demand the enforcement of the law [...]" (Harbuz, the Chair of the Industry Department of the

L'viv regional administration, workers' picket, participant observation). The regional administration officials argued they would want to support workers, but claimed that the private ownership status of the enterprise left the state administration no possibilities to interfere (ibid). This was obviously not true, as non-interference into private businesses should never extend to private owners' violations of labour laws. Instead, the administration refused to bring the conflict into a formal framework of rules by officially charging the employer with violations of existing law. Harbuz ensured workers that he had had and would continue to have personal conversations with the owner and that the owner had promised him that all wage debts would be paid soon (ibid). In this way, workers issues were articulated within the personal relationships of Harbuz and the LAZy owner, thus circumventing the formal framework regulating the relationships between workers and management.

Despite the legal victories and Harbuz's negotiations, only a few workers received the wages owed to them. The official accounts of the enterprise remained empty. Profits from the plant sales were channelled through fraudulent bank accounts (open normally for one to three days), so none of the court verdicts could be enforced (Koval, LAZy RUC's president, interview; Prysyazhnyuk, LAZy ITU's president, interview). At this stage of the conflict the RUC and ITU had already used all options that are available to them in such conflicts. Hence, workers started to search for new solutions and to look for ways to enforce the court verdicts they had won. All these tasks required the unions to transcend their existing role and functions of worker representation, which was undeniably beyond the strength and experience of the two enterprise-based unions.

The turn in the strategy of both unions

The unions and workers looked for ways to credit the official enterprise account in order to enact the court's verdicts, when it became clear that the court verdicts and protests had not helped workers to get wages debts paid. Workers thought that if they sold some half-assembled buses on their own, they could request the transfer of the payment into the official enterprise account, which was already under the control of the State Executive Service. Thus, the unions themselves started to search for a buyer of buses. In December 2009 they sold one bus and money arrived into the official account. However, the deal was annul by the court and resulted in a long court procedure that was finally resolved in favour of the workers one year later. Around 200 workers received their wages (Koval, LAZy RUC's president, interview follow-up).

The unions continued their struggle by means of appeals, meetings and protests in their attempts to get wages paid to all the workers. Enterprise management, together with the management-controlled union and the president of the AAMB Oblast Committee, Zakhvatkina, launched a PR-campaign stating that workers had been paid all their wages and that the enterprise's operations had been renewed. In reality, the workers saw no big changes; they remained stuck in the courts and in hopeless dialogue with authorities (Sokolov, the president of the L'viv Confederation of Free Trade Unions, interview). Prysyazhnyuk and Koval were dismissed and re-instated after several court hearings (Prysyazhnyuk, LAZy ITU's president, interview follow-up; Koval, LAZy RUC's president, interview follow-up). As the plant-level unions' leadership was denied access to the enterprise, and to all union documentation and material resources, the future existence of both unions was severely threatened and insecure.

5.2. Lafarge Mykolaivcement

5.2.1. Enterprise and union background

The approach to enterprise management of foreign owners differs from the paternalistic management characterising domestic managerial personnel. Lafarge – a French TNC in the building materials sector - has owned the Ukrainian plant Mykolaivcement since 1999.⁵⁵ Firstly, as a result of the plant restructuring initiated by new management, employment at the plant fell from 2,400 to 1,450 workers in 2000 with only around 650 workers currently being employed (Nosaryova 2000). Secondly, the plant's remaining workers receive comparatively better wages. Thus, the plant's workers have hardly faced the scale of wage-related difficulties that workers at many enterprises, including LAZy, have. Thirdly, management began to exclude the union from enterprise management. More and more decisions were adopted without any consultations with the trade unions, as had been the case before.

The trade union of Mykolaivcement was established in the early 1950s, shortly after the construction of the plant. Hardly any significant changes in terms of its functions and activities took place up until to the early 2000s (Andreyev, then Vice-President of the Central Committee of the Construction and Building Material Industry Unions of Ukraine (CBMI), interview). RUC's leaders mainly focused on organising workers' recreation and distributing presents, as they had before (ibid). However, the increasing exclusion of the

⁵⁵ Throughout the 2000s Lafarge expanded its operations in Ukraine in different regions and currently employs 1600 workers countrywide incl. 650 at Mykolaivcement.

trade union put pressure on the new trade union president, Olesya Gusak, to develop new approaches. In this sense one can speak about the organisational phase of union formation at the Lafarge Mykolaivcement starting in the second half of 2000s in spite of the fact that the RUC has existed for many years prior to this transition. Unlike the situation at LAZy, only one union exists at Lafarge Mykolaivcement.

5.2.2. The reformulation of the union position

In the second half of 2000s personnel layoffs started at Lafarge Mykolaivcement. Workers complained to the union. The union president, Gusak, suggested that workers not accept dismissal without negotiating severance pay, thus encouraging workers to exercise their rights. Gusak stressed that:

"I could not stop repeating don't leave just for several kopeks, if you decide to leave! Because unless you sign the voluntary termination of the contract, I say it again, no one can fire you [...] Who told you to accept the dismissal notice? If you submit such a voluntary termination – I was tired of repeating this to them [workers] – then it means you say to your employer, OK, you want me to leave and I agree to leave but on my own conditions because I have to think about my own future" (Gusak, Lafarge Mykolaivcement RUC's president, interview).

In the words of the RUC's president, it was precisely this moment of layoffs that encouraged her to re-consider the role of trade unions. In her opinion, unions could do more than solely serve as charity organisations attached to enterprise administrations, distributing holiday presents and material assistance, as had been the case for decades:

"[...] I say to everybody, that my goal is to re-fashion the union from the very grassroots, so that it no longer resembles that old, Soviet and communist one. I want every person to know that the trade union is there to protect her/him. If we back our claims by law, we are capable of doing certain things. We are. It is merely people who are not used to that [union role...]" (ibid).

This position of Gusak indicates the union's new orientation to workers. Gusak aimed to raise workers' awareness of the new role of unions and to develop a more active worker involvement in unions.

As the union aimed to solidify its approach to protecting and representing workers, Gusak did not sign the dismissals of those workers who did not want to leave. In Ukraine the approval of worker dismissals by the enterprise trade union is legally required in such cases. In spite of the disapproval of the RUC, the management still dismissed some workers. With the assistance of the lawyer from the L'viv Oblast Committee of CBMI, however, Gusak took management to court over the illegal dismissals and succeeded in having workers reinstated and obtaining compensation for them (Sofia Chunis, CBMI Oblast Committee's president, personal communication).

Within the ongoing re-organisation of the RUC Gusak put collective bargaining and wages at the top of the union's agenda. During a subsequent round of collective

bargaining in 2008, the union negotiated severance pay in the fixed amount of Hr 20,000 (the equivalent of \$4,000 at that point in time). This was a great improvement compared to the initial compensation of \$500 initially offered to workers by management (Nosaryova 2000). Nevertheless, as the Ukrainian currency lost its value soon afterwards, the Hr 20,000 quickly came no more than \$2,500. This led the union to demand that severance pay be recalculated to include an additional adjustable amount of money (Gusak, Lafarge Mykolaivcement RUC's president, interview).

Gusak's emphasis on bargaining activities demonstrated an attempt to change the practice of collective bargaining from symbolic to substantive. Collective agreements that were negotiated under socialism were largely considered to be symbolic, as they did not contain any wage-related provisions. Wage increases set in the Sectoral Agreement and negotiated since the 1990s for the construction sector by the CBMI Central Committee⁵⁶ were wholly insufficient. In contrast to this, the collective agreement at Lafarge Mykolaivcement initially documented its arrangements in terms of comparatively better wages and wage increases larger than those that were legally set through the minimum wage and the Sectoral Agreement.

The change in union leadership's approach to protect workers at Lafarge Mykolaivcement necessitated changes in workers' perceptions of and attitudes towards trade unions. Workers were not previously aware of all the mechanisms a union committee has in order to ensure worker representation. Also, workers could not see a union, which yesterday had solely distributed holiday vouchers and presents, as the organisation today aiming to protect them (Lafarge Mykolaivcement workers, personal communication). These workers' perceptions of the RUC at Lafarge Mykolaivcement reflected a general background of workers' perceptions of trade unions that had been shaped by those, which were common in post-socialist societies (Bychenko 2001, Gerchikov 1995, UCEPS 2001) with the union role thus being seen in traditional terms. For the RUC itself, to achieve a change in workers' perceptions, so that they became aware that their union itself had changed, required union actions (Gusak, Lafarge Mykolaivcement RUC's president, interview). Workers brought their concerns to the union more and more frequently. As Gusak put it:

"I think the fact that people do not leave the union but indeed come and join it means that we already have some changes, it means people believe. They believe at least, they believe even in myself. [...] It means I succeeded and convinced them. I convinced them that I have been with them, and that my position is a principled one. We will reach even the European Court, if needed" (Gusak, Lafarge Mykolaivcement RUC's president, interview).

⁵⁶ Over years the CBMI succeeded in setting wage scales for the construction sector at 1.2 of the statutory minimum wage only.

The union of Lafarge Mykolaivcement managed to keep almost all the remaining workers as members and included newcomers as well (Andreyev, CBMI's president, interview).

5.2.3. Wage Increases and Conflict Development

Under several previous managements led by Russian, Czech, and later Polish CEOs, management-union communication at Lafarge Mykolaivcement was smoother and easier (Gusak, Lafarge Mykolaivcement RUC's president, interview). Firstly, the possibility of direct communication existed since the CEOs could speak Russian. This made negotiations between the union and management more direct and straightforward. Secondly, management was open to dialogue with the union and to the union's demands. As the former CEOs had all operated under the socialist system of IR, this might have facilitated union-management dialogue. The union was provided with the relevant financial information necessary for wage calculations and dialogue with the union was accepted and the union felt it was recognised as a partner (ibid). More significantly, the union was granted wage increases of 12% and 27.3% exceeding those set legally, made possible due to the layoff of workers (Andreyev, then Vice-President of the Central Committee of CBMI, interview). As such, the only major increases in wages took place under this management.

In 2004, management revised the system of remuneration. The system shifted from a wage pegged to the legally set wage scales to fixed wage rates dependent on workers' qualifications, value to the enterprise, language and computer skills, etc. Before this change, the union of Lafarge Mykolaivcement could still use the law to negotiate and demand regular wage increases in line with the increases of the legally set minimum (as well as the financial indicators of the enterprise's business activity). However, as the wages at the enterprise were no longer pegged to the legal minimal, the value of this law for the Lafarge Mykolaivcement union became limited.

On the one hand, the new institutional structure allows strong 'veto' rights for trade unions in order to avoid the violations of the law, but it leaves them with few mechanisms, when the law is not violated (Chapter IV). As once said by Bassarab, RUC's president of the AMKR mining department: "[...] We have a lot of good labour laws [...] the union has the influence, where the law is violated, but where the owner remains within the confines of the law, we cannot have any influence here" (Bassarab, RUC's president of the AMKR mining department, interview). In the context of Lafarge

Mykolaivcement, this law of wage increases has allowed trade unions to 'remind' management to increase the pay in accordance with legal increases in minimum wage and to demand the recalculation of paid wages along state-defined lines. At the same time, the legal increases in minimum pay standards do not even conform to the rate of inflation and currency devaluation (Kondryuk, FPU's vice-president, interview). In order to get reasonable wage increases, unions need to formulate wage increase demands exceeding the statutory increases. It is then just a question of whether the employer will satisfy the union's demands.

On the other hand, wage increases which exceed statutory rates can be better ensured by collective action than by law. However, within the present institutional framework of IR, collective actions were not easily permitted as a means to successfully advance workers' demands (Gusak, Lafarge Mykolaivcement RUC's president, interview). The institutional structure of Ukrainian IR envisages a long-lasting procedure of union-management conciliation before union-initiated action can take place (see Chapter IV). This significantly constrains militant forms of articulating wage demands. In particular, if labour law is observed (meaning that no more than the legal increases are ensured), all militant action could be rendered illegal.

This was precisely the situation in which the Lafarge Mykolaivcement union found itself when demanding further improvements of wages. In successive rounds of wage negotiations taking place up until 2008 the RUC still managed to get reasonable wage increases. However, the union saw the share of wages to overall production costs declining year over year. Similarly, the share of wages fell from over 11% previously to below 4% of the overall production costs of the enterprise (Lafarge Mykolaivcement RUC's letter to management).

New management and an increase in union-management confrontation

When the Austrian management arrived at Mykolayivcement at the beginning of 2009, the state of union-management relationships changed significantly. Firstly, direct communication was no longer possible; all negotiations took place through an interpreter. The union did not feel comfortable communicating through the interpreter, even having the impression that the interpreter would sometimes interpret the issues as it was convenient for her (Gusak, Lafarge Mykolaivcement RUC's president, interview).

Secondly, the new management no longer believed it was obliged to provide the union with all the information (including financial information) relevant to the wages

calculation practices. Management argued that any financial information was outside union competence (Lafarge Mykolaivcement management's letter to Gusak). Despite the fact that Ukrainian law provides that enterprise information relevant to wages is to be provided by management and is common practice, the law is open to interpretation which gives management the grounds, on which to deny access to information (Gusak, Lafarge Mykolaivcement RUC's president, interview). These different understandings and interpretations of laws became one of the first stumbling blocks in the relationship between the union and the new management at Lafarge.

An escalation into confrontational union-management relations quickly followed. Given the low legal wage levels in the city and already comparatively high workers' wages at Lafarge Mykolaivcement, the new management did not see it as necessary to give further wage increases, which would compensate for inflation. In order to avoid any complications, the management of Lafarge Mykolaivcement took the position that it was sufficient to rely on the wage increases standards set by law, as this would ensure legal compliance and give it grounds to reject any further claims for higher wages.

As long as Lafarge obeyed the law, Lafarge Mykolaivcement RUC had few further means to push for wage increases. The refusal of the new management to share relevant financial information left the trade union with few tools, with which to calculate appropriate wages increases based on the financial situation of the enterprise. This approach made sense before 2008, since the union could access the relevant financial data. Since 2008, the lack of financial information made profit-based wage calculations impossible. The Lafarge Mykolaivcement trade union turned to demand wage increases in line with the legally set increases and additionally, inflation.

As Gusak pointed,

"[...] They [enterprise management] refuse to give us [wages increases higher than those set by the state]. [...] And we cannot threaten them with protest. Look, they [management] can say, she mobilises people for protests when we did not violate anything [...]. Our people have what the state guarantees to them. At present we're forced to restrain the scope of our activities and just follow how the state increased the guarantees and then pose demands for these increases at the enterprise. [...] I asked them, please take into account inflation [...]. The inflation was around 18% and they increased the wages in January by statutory 15% I think. So I suggested to them, let us increase wages additionally by 7.5% - exactly the mid-point of inflation - neither yours nor mine. No, they did not agree [...]" (Gusak, Lafarge Mykolaivcement RUC's president, interview).

The politicisation of IR issues is prompted by some constraints within the institutional framework of IR in two important arenas – wages negotiations and collective actions. Legally set conciliation procedures leave little space for union militancy at the point in time, when it has the greatest chance of being effective, while unions have hardly any other mechanisms save militancy to demand wage increases, which exceed those that

are set statutorily. Hence, IR issues, such as wages, are left up to political will and can hardly be easily regulated voluntarily by trade unions. As Gusak said:

“Our laws [prevent enterprise-based wage increases...] if the law would anticipate, say, 10% wage increases, this law should be adopted by the Parliament. And who is in our Parliament? They [Members of Parliaments] nearly all own enterprises. Why would they adopt something that goes against them? Never ever. If it [real wage increases] is not instituted by law [...]. If we want to legalise it through collective agreement the owner would not do it. And we lack the leverage to influence him. Because the law sets standards at the lower level. And it will never be anticipated by law in a different manner [...]” (Gusak, Lafarge Mykolaivcement RUC’s president, interview).

Although management guaranteed production workers some minimal increases, the real income of workers in other occupations started to shrink.⁵⁷

The situation escalated when wage increases started to lag behind the legally set quarterly increases. Some Lafarge workers suggested that they should go on strike, but Gusak decided to calm workers’ ambitions to strike. She argued that not only had the plant’s supplies fallen significantly in 2010, but also a strike could be denounced as being illegal, as the procedures of conciliation must be completed first (Lafarge Mykolaivcement workers, personal communication). Gusak supposed that since the union had already achieved wage levels exceeding the averages in the sector, the management could call on the labour inspectorate for support. The labour inspectorate would audit the enforcement of legal provisions on the minimum wage and could then confirm a strike would be illegal. Gusak came to this conclusion after one such conflict, when the labour inspector was called to the enterprise. Then, the labour inspector said to the union: “What do you want? You have already much more than the minimum wage!” (Gusak, Lafarge Mykolaivcement RUC’s president, interview). Against this position of the labour inspectorate, in the case of protests and strikes, management would then have additional grounds to take the union president to court and to launch a criminal case against Gusak.

Union-management confrontation on other work-related issues

In addition to the new wage system, Lafarge management introduced stricter health and safety regulations at Lafarge Mykolaivcement. Under these rules, workers were expected to wear safety glasses in order to prevent cement from getting into their eyes. Also, workers were advised by special signs to hold the handrail, while walking down stairs.

⁵⁷ For example, the average of Hr 4200 (as of October 2009, formerly equivalent to \$700) is calculated based on the wages of all employees including the enterprise management. In this calculation the average wage is almost three times higher than regional wage indicators. Without the managerial wages, the solely production workers’ average would amount to approximately Hr 3700 (\$620), which still is comparatively high in the region. At the same time some other workers received almost less than half (Gusak, RUC President at Lafarge Mykolaivcement, interview).

This prompted further outrage from both workers and the union, who were used to only taking self-protection measures, when directly engaged in production labour.

Simultaneously, management issued a new legal provision on dismissal. The new provision envisaged that workers could be dismissed, after being reprimanded twice. Such reprimands would normally be issued by management for the violation of the new health and safety rules or similar. However, in order to be valid, the new dismissal provision had to be approved by the trade union. Gusak considered the new dismissal provision problematic, as it meant that a worker could be dismissed very easily. For example, he or she could be caught without protective glasses in any part of the plant that is distant from the production buildings. According to the new dismissal provision, this worker would be reprimanded and then dismissed. Similarly, for walking up the stairs twice without holding the handrail, a worker could be dismissed, too. As Gusak suspected, the new dismissal provision would thus enable management to easily dismiss those workers, whom management would like to lay off (or otherwise remove) by circumventing the official procedure. Anticipating such an effect of the new dismissal provision, Gusak refused to sign it, which made the provisions illegal. Management adopted the provision as a unilateral decree, thus ignoring the position of the union.

The position of the union remained firm and Gusak repeatedly refused to sign dismissals, arguing that more investigation was required in such cases of reprimands. This led to yet more confrontation, as union-management relations had already been continuing to worsen. As the comment below demonstrates, the union leadership was upset about being excluded from the areas of IR, in which the union had been participating for decades:

[...] They [management] only want to see and hear what they want to. No matter what one tells them, they don't want to take any single step away from their views. That's why I used to ask whether they believe we are stupid or are stupid themselves? Try to understand them! [...] Well, I don't know whether they [foreign management] take our people to be stupid or what they think" (Gusak, Lafarge Mykolaivcement RUC's president, interview).

The rising confrontation between Gusak and the foreign management highlighted the different views adopted with regards to the role of the trade union. These differing positions of the union leadership and the foreign management continued to be a source of confrontation.

In response to continued attempts to exclude the union from certain areas of decision-making and the responses of formal management to Gusak's requests, Gusak appealed to the Prosecutor General's office, but had not yet receive a response at the time this research was conducted. She had also started to look to the members of the regional

parliament, who could solve union-management confrontation by pressuring management to allow for union involvement in the enterprise management. In this way, the union-management conflict at Lafarge had started to be politicised.

5.3. Discussion: The Formation of Unions at LAZy and Lafarge Mykolaivcement

Even though the situation of both enterprises differs significantly,⁵⁸ workers and trade unions confronted numerous work-related problems, including wages, lay-offs and the exclusion of these same trade unions from enterprise management. These problems relieved pressure from demands for new, conflict-based approaches of worker representation. The cases thus suggest some common findings, as focusing on examples of the organisation of these trade unions within their specific conflict situations indicates how union approaches were in the process of development at both enterprises.

5.3.1. The Context of (Re)Organisation of Trade Unions

The installation of a new institutional infrastructure of IR clearly opened numerous opportunities for the reorganisation of trade unions and forms of worker representation. Nevertheless, within an unfavourable political and economic context for the development of worker representation, conflict-based representation of workers exclusively within the borders of an enterprise has remained problematic. The mechanisms of solutions to conflict were particularly difficult to use, as this unfavourable context permitted the exclusion of the unions at both LAZy and Lafarge Mykolaivcement from areas of union participation, to which access had been granted in the institutional framework of IR. Facing such exclusions, trade unions could barely rely on the formal framework to provide a basis for union participation through negotiations and collective bargaining etc. in areas of enterprise decision-making.

Firstly, unfavourable conditions have emerged, because formal law has been exercised within the inherited context of weak law enforcement and flourishing personal relationships dominating the law. At LAZy, the access of Churkin to policy-makers and state authorities allowed him to both operate in intentional violation of numerous laws without any penalty and secure state investment in his plant. This deprived the LAZy

⁵⁸ The situations present at LAZy and Lafarge Mykolaivcement differ considerably. Firstly, LAZy was under Russian ownership, familiar with the local context and traditions of socialist-style IR while Lafarge Mykolaivcement was bought by a French company, originating from a capitalist system of IR. Secondly, LAZy has faced continuous economic decline resulting from its rent-seeking business strategy. Lafarge Mykolaivcement was successful in renewing its operations and accumulating profits. Finally, workers of Lafarge Mykolaivcement were paid quite good wages in comparison with regional pay levels. In contrast, workers at LAZy could not even ensure they received their low wages which were often stuck in wage debts.

trade unions of many rights and instruments of influence that were intended for their benefit within the IR framework. When the articulation of the conflict became no longer possible within the borders of the enterprise, this led to the politicisation of the labour conflict. At Lafarge Mykolaivcement, labour inspections, courts and the prosecutors' office became relevant, as soon as the law became open to interpretation. The law was interpreted by Lafarge management in such a way that it allowed for the exclusion of the trade union from certain decisions. In spite of this, the labour inspectorate has not intervened, because the minimal legal guarantees of work payment were observed here.

Secondly, the trade unions of both enterprises have had to struggle with the effects of distinct past legacies. Such legacies included the effects of the disciplining function adopted by socialist trade unions and consequent changes in the overall structure of the former socialist union movement that have been clearly indicated in the formation of the two RUCs and ITU. For instance, the legacy of the disciplining function carried out by trade unions was observed in Krasnevykh's position taken to restrain the increasing conflict over wages and lay-offs. This was shown by Krasnevykh's repeated attempts to calm workers down by promising payment of their wages. Krasnevykh continuously refused to negotiate all of these problems with management. Similarly, another part of the socialist legacy was the perpetuation of workers' traditional perceptions of unions. Their acceptance of this same disciplining role could be seen at both LAZy and Lafarge Mykolaivcement, when workers still continued to perceive the trade union as just an organisation distributing presents and organising recreation. In light of the workers' traditional perceptions of unions, RUCs, for instance, have continued certain activities, which solidify the union's distributive role, such as the distribution of presents among union members.

Not only did these same RUCs depend on the external, higher-level union organisations in order to get legal assistance and access to union-owned recreation facilities, but also the changes taking place at the enterprise-level would require additional acceptance by the higher-level union committees. This was shown in the situation at LAZy, in which Lysak and Koval later on were both isolated and their attempts to reform the RUC were blocked by management and the Oblast Committee President Zakhvatkina. By contrast, both the RUC and ITU of Lafarge Mykolaivcement did receive assistance from the Oblast Committee of the CBMI and L'viv Confederation of Free Trade Unions, respectively. Especially in the case of politicised conflicts, this assistance was important to enable local unions to articulate conflicts.

Against this unfavourable background, in the case of trade unions at LAZy, as well as in the case of the RUC at Lafarge Mykolaivcement, union choices relating to single dimensions of their formation have been critical to the question of whether and how conflict-based forms of worker representation have been developing here.

5.3.2. Union Formation

Union Identity

As former socialist trade unions declared their re-orientation towards workers' interests and rights and defined their functions in terms of worker representation, the question of the union identity is highly relevant. At LAZy, the development of the RUC under the presidency of Krasnevych did not facilitate any collective identity of workers as specifically differentiated from their employers. The increasingly visible loyalty of the RUC's President Krasnevych to management came to the forefront, when Krasnevych barely addressed the accumulating workers' needs and demands. This indicates that the proclamation of the new union identity was not solidified by any actions in the case of the RUC under Krasnevych's leadership. This positioning of the RUC amid its proclaimed pro-worker identity had a constraining and demobilising effect on workers. In 2008, workers withdrew their early demands to management and waited for wages to be paid. Workers continued to rely on their RUC for some time, even when they started to distrust it. It was only when Krasnevych signed the decree on the LAZy idling that workers began to organise themselves, establishing an independent trade union.

As this shows, a new collective identity of workers started to appear due to the increasing conflict over wages and lay-offs. This emergence of a new, collective identity amongst workers was manifested in the workers' action outside of the idled plant in December 2007. As the RUC's leadership did not show up, workers started to compile the violations of workers' rights and appealed to the court. Due to the reproduced forms of worker representation by the RUC, this new collective identity of workers was only able to emerge outside the RUC and resulted in the establishment of the ITU at the same enterprise. Having its roots in the workers' self-led organisation shaped the identity of the LAZy ITU. The ITU's identity thus reflected a fundamental union opposition to management. Also, due to the unchanging identity of the RUC, the ITU's identity embodied an opposition to the existing union under Krasnevych's leadership. Hence, in this organisational phase of trade unions at LAZy, the emerging collective identity of workers has involved opposition to the existing RUC. It was only when RUC's leadership

changed and the new leadership became more actively involved in the conflict that the ITU started to coordinate its actions with the RUC.

In contrast to LAZy's RUC, the RUC at Lafarge Mykolaivcement took the issues of wages and lay-offs straight to the management, engaging them in union-management negotiations. It was the union leadership that tried to reform the trade union from the grassroots into an organisation, which "[...] no longer resembles that old, Soviet and communist one [...] [and which] is there to protect [workers]" (Gusak, Lafarge Mykolaivcement RUC's president, interview). Central to Gusak's course was the advocacy of this same new, collective identity amongst workers. Not only did workers see their RUC supporting them in cases of lay-offs, but they also saw the union challenging the management's unilateral initiatives by taking it to court or refusing to formally approve some of the management's decrees. Thus, Lafarge Mykolaivcement RUC's pro-worker position was solidified through the RUC action, which was based on the potential conflict of interests between workers and management. In contrast to the LAZy, workers had the RUC representing them during conflicts. Against this background, conflict has not arisen between the RUC and workers or with the establishment of an ITU at this enterprise.

Union Agenda

The developments at LAZy and at Lafarge Mykolaivcement as described above shaped the agendas of their enterprise-based unions. Gusak's predecessor at Lafarge Mykolaivcement, as well as Krasnevykh at LAZy, had both focused on the distribution of presents and organisation of recreational activities for workers. Collective bargaining hardly played a significant role in their activities. Both union presidents signed collective agreements, but this was just a formal act. The unions' agendas under the leaderships of these former RUCs' presidents indicate the reproduction of the previous model of worker representation, based on union welfare functions.

For Prysyazhnyuk, as well as for the leaders of the newer RUCs at LAZy the agenda of their unions was pre-determined by the escalated situation, the context in which they all were elected. Hence, these agendas were constructed on the basis of enterprise-specific conflict related to wages and lay-offs and reflecting the potential conflict of interests between workers and enterprise management. However, the institutional mechanisms of collective bargaining were not accessible at that point, as both trade unions were denied access to the plant. Also, from the very beginning the resources for presents and

recreation were never made available to the ITU and were no longer available to the RUC, once it lost support from the Oblast and Central Committees. Thus, the unions could no longer maintain their distributive function.

Similarly, the position taken by Gusak and her efforts to reform the trade union presupposed the inclusion of the issues that were central to the workers' conflicts with the management in collective bargaining. At the same time, in spite of Gusak's emphasis on collective bargaining and the enforcement of labour law, she still felt the need to retain the distributive activities on the union agenda, thus simultaneously re-enforcing the welfare function of the trade unions that had characterised the previous model of worker representation in addition to its protective function.

Importantly, for all union leaders who found themselves in enterprise-specific situations, it was not enough to formulate their union agendas based solely on the narrow terms of workers' immediate interests (such as wage debts and lay-offs). The more the leaders of all three unions focused on solving the issues of workers' debts (at LAZy) and wage increases (at Lafarge Mykolaivcement), the more it became clear that the conflict could not be solved solely within the borders of the enterprises. The union agendas had to be broadened in order to address such issues as rule of law, interpretation of the law and national wage policy. This is shown by the shift in LAZy union strategy, during which all LAZy unions first started to picket in front of the regional administration and then sold a bus themselves. Similarly, Gusak struggled with the shortcomings in the area regulating wage increases, when she tried to get wage increases exceeding those that were set in law. Hence, all the unions discussed above were placed in positions, which politicised their agendas by involving the state authorities in their conflicts with management.

Union Structure

These cases show that RUCs are still embedded in the union movement structure due to the way that they are dependent on the higher levels of union bodies. The embeddedness of the enterprise-based RUCs as the primary union organisations of the sectoral union and parts of the regional union committees is indicative of the structure of 'democratic centralism' that was practiced under the socialist system of IR. Within this structure, the enterprise-based RUCs are under the control of the higher level union bodies. Because Oblast union committees act as 'bosses' to the enterprise-based RUCs, any enterprise-based RUC reforms are dependent on the stance of the higher level union

bodies. Enterprise-based RUC are also dependent on higher level union bodies in terms of the expertise of their professionals (e.g. union lawyers).⁵⁹ Depending on the position of the regional union committees, as the different cases of LAZy and Lafarge Mykolaivcement demonstrate, constraining (LAZy) or facilitating (Lafarge Mykolaivcement) effects may be imposed on union formation. Thus, many enterprise-based unions find themselves in a quite vulnerable position.

This is well demonstrated by the relationships between Dudnyk, the AAMB's president, Zakhvatkina, AAMB's Oblast Committee president, and the new leadership of the LAZy RUC. Not only was the RUC's distrust of Zakhvatkina not taken seriously by Dudnyk, but as soon as the situation at LAZy shifted out of control of Krasnevykh and Zakhvatkina, Zakhvatkina prohibited the union lawyer from helping Lysak and Koval and threatened the further existence of both RUC and ITU by establishing another union at LAZy. In this sense, the reform process of the RUC as well as the further development of the ITU were constrained and inhibited by an Oblast Committee that evidently was not supportive of the involvement of any trade unions in the articulation of conflict.

In the case of Lafarge Mykolaivcement, the Oblast Committee did assist the RUC in their appeals to the courts by providing legal advice. This granted the enterprise-based RUC benefits for workers thanks to Gusak. However, no further signs of the involvement of the regional union committee have been identified. Similarly, the ITU of LAZy was assisted by the L'viv Regional Confederation of Free Trade Unions, which joined them during preparation meetings and protests and helped them to develop the union strategy of the ITU.

Union Resources

At LAZy, both trade unions lacked the financial and material resources necessary for their activities. Wages were not paid to workers, so membership dues collected by trade unions were minimal. Neither of trade unions had offices with the necessary infrastructure normally provided by management. This inhibited the formation of both the RUC and ITU at LAZy. The source of power of both unions at LAZy was workers' collectivity, but workers' collectivity has been a challenging and ambitious issue in the contexts of both enterprises. Although workers' collectivity has emerged from spontaneous worker action to self-led organisation in the LAZy ITU, even in the case of

⁵⁹ In the same manner, recreational facilities, the basis upon which unions have traditionally organised workers' recreation, are based at the upper level, regional and sectoral trade union committees, thus, strengthening local RUCs' dependence on the higher level union bodies.

LAZy only approximately half of workers supported the pickets. As soon as workers received their owed wages, they left the protests.

At Lafarge Mykolaivcement, material and financial resources-related constraints have not been present. Although the RUC had access to the resources necessary to fulfil its welfare functions, these same resources were not sufficient to enforce the bargaining agenda of the RUC. Collective worker action was necessary in order to advance the union's demands during the collective bargaining. At the same time, as the RUC had never mobilised workers before, it had no immediate capacity to enforce its demands. Also, even though Gusak kept advocating the union's new role, she has faced significant constraints, rooted in the workers' traditional attachment to the union and their perception of the unions' role as being predominantly responsible for distributing holiday presents. In addition, as the laws were observed by Lafarge Mykolaivcement management, collective actions were not easy to organise.

Union-Management Relations

At both enterprises, union-management relations developed into conflict relationships. Although the source of the conflict differed at both enterprises, these conflict relationships indicated an increasing conflict of interests between workers and management. Notably, the same was not observable in the case of the LAZy RUC under the presidency of Krasnevyh. Importantly, management needed Krasnevyh to approve its decrees, which she did. In contrast, conflicts of interests became particularly visible as soon as the new leadership of the LAZy RUC and the leadership of the ITU articulated their more antagonistic positions in relation to management (as compared to Krasnevyh's approach). With the change in the RUC's stance, management denied the access of both unions to the enterprise, and hence, completely excluded the RUC and ITU from the enterprise-level IR, so that no further articulation of this conflict of interests was possible within the institutional arenas of IR.

Interestingly, Gusak's relationships with the CEE-native CEOs were not marked by the same degree of conflict, as was her relationship with the Austrian CEO. As confrontation started to arise later, Gusak similarly faced exclusion from enterprise management, although, in comparison to the LAZy case, it was only partial exclusion. In spite of the institutional framework facilitating union participation in enterprise management, it was possible for management to exclude Gusak due to the differences in the interpretation of relevant IR laws. This exclusion also led to the politicisation of the

conflict at Lafarge Mykolaivcement, as it resulted in interaction of the RUC with law enforcement agencies. The union turned to the prosecutor's office, demanding that the foreign employer correctly interpret Ukrainian labour laws. This union role thus shows some similarities with the cases of both LAZy unions.

Union Approaches to Conflicts

As far as union approaches to enterprise-based conflict are concerned, Krasnevych's position was characterised by a constraining approach as commonly falling within the union function of disciplining workers. This was shown when Krasnevych tried to delay the articulation of the conflict, by promising workers again and again that wages would be paid soon. In contrast, Koval, the new president of the LAZy RUC and Prysyazhnyuk, the president of the LAZy ITU, concentrated on generating the conflict. Not only did they mobilise workers at LAZy, but they also appealed to the courts and looked for the most appropriate solutions, thus, they developed the capacity that was needed for the enforcement of workers' demands.

Gusak did not mobilise workers for any collective actions, although she tried to mobilise them in collective negotiations. In her confrontation with the new Lafarge Mykolaivcement management she followed exclusively legal strategies to try to resolve the conflict. While the core of the union-management confrontation at Lafarge Mykolaivcement turned out to be based on the interpretation of the law and union participation rights, this seemed to be the most appropriate strategy in the given setting. In addition, as workers wanted to protest only when reasonable wage increases were no longer granted, the union leadership was hardly in a position to mobilise workers against legal barriers that are anticipated in law in case of such protests.

5.4. Conclusion

As the RUCs of LAZy and Lafarge Mykolaivcement were challenged to develop conflict-based forms of worker representation, this presupposed the development of several union features: a collective, conflict-based identity, which addresses the potential conflict of interests between workers and management; a conflict-oriented agenda that addresses workers' increasing number of problems; as well as antagonistic relationships and attitudes to conflicts, which presuppose that trade unions take the conflict to the management to seek the solutions. Given the historical background of the RUCs' development, rooted in the previously established socialist trade unions, the question has arisen how the union formation processes at LAZy and Lafarge Mykolaivcement

have contributed to the establishment of the new interest constellations and conflicts of interests.

The developments of the LAZy RUC under the leadership of Krasnevych, as well as of the Lafarge Mykolaivcement RUC under the leadership of the predecessor of Gusak, indicate that union formative processes reproduced the previous model of worker representation. This was especially evident in the case of LAZy where, under the conditions of increasing conflict over wage debts and lay-offs, the RUC adopted a position of avoiding any formal registration of the conflict and any negotiations with management. In both cases, union loyalty to management inhibited the establishment of the conflicts of interests between workers and management. Also, the reproduction of the previous model of worker representation of the RUC had a constraining and demobilising effect on workers. Repeatedly, workers withdrew their initial demands to management and waited for wages to be paid.

This reproduction only determined the forms of worker representation up until a critical point however. When Krasnevych's pro-management stance threatened workers (when she signed the decree on the LAZy standstill), some forms of conflict-based worker representation began to emerge, when workers organised themselves, establishing an independent trade union. Alongside the reproduction of the forms of worker representation, as commonly observed in the literature, the development of different forms of worker representation can also be observed. At these critical points in time, the collective identity, agendas and the antagonistic relationships between workers and management at LAZy had already been emerging outside of the RUC, when workers united in front of the closed plant and appealed to the court in order to have their wages paid. The establishment of the ITU was the outcome of workers' growing distrust of the RUC and its legitimacy, and of their departure from the RUC. Against the background of the demobilising affects on the part of RUC, ITU developed in opposition to the existing union under Krasnevych's leadership. Notably, after the change in the position of the RUC that came about with the new leadership, the ITU no longer opposed the RUC. Instead, cooperation between both trade unions could be observed.

This development of conflict-based forms of worker representation contrasts with the situation at Lafarge Mykolaivcement, where no such deteriorating problems were observed. The collective identity of workers started to emerge after Gusak's intention to make the trade union 'a real one'. As workers' problems were addressed by the RUC, no

worker organisation processes were possible outside the Lafarge Mykolaivcement RUC. Also, no attempts to establish any alternative trade unions were necessary here.

As the cases presented above show, the union capacity to ensure conflict-based worker representation was not high at the time when the new institutional framework of IR was installed and the conflicts started to develop. It is only under the pressure of emerging conflicts that this union capacity, including conflict-based identity, agendas, relationships with management and attitudes to conflicts started to emerge within the trade unions here discussed. As this capacity has been developing in the case of LAZy, resources-related constraints resulting from the wage arrears, the exclusion of the RUC and ITU by the management and RUC's higher-level union committees inhibited this process of capacity-development. Although these same resources-related constraints were not seen in the case of Lafarge Mykolaivcement, its process of capacity-building was inhibited by the workers' traditional expectations of the role of trade unions, which was then immediately played out in workers' collectivity.

Within this (re)organisation process of all trade unions, which aimed to develop the capacity needed for conflict-based forms of worker representation, - by developing the collective identities, agendas, antagonistic relationships with management and attitudes to conflicts - these unions needed to address the broader external challenges confronting unions in connection with worker representation. Beyond representation through trade unions, the articulation of workers' immediate occupational interests is still dependent on the policy-making process and political will of policy-makers. In this general context, union reconstitution goes beyond the immediate strengthening of union structures and development of capacities to provide conflict-based worker representation. This leads to the politicisation of conflicts that (potentially) emerge between workers and employers.

In this context of ongoing union formation, when it is too premature for unions to have the capacity to carry out conflict-based worker representation, both incentives and constraints emerge from the institutional structure of IR. On the one hand, labour law establishes strong worker rights and provisions for union participation in many areas of enterprise management. However, on the other hand, the law mainly allows union involvement and participation through 'veto' rights, while leaving them little space or mechanisms to pursue more offensive positions.

Secondly, voluntary regulation of wages and wage increases operates within the constraints of state policy on work remuneration. This inhibits the capacity of trade

unions to voluntarily negotiate reasonable wage increases. In order to guarantee the subsistence of workers, minimum wages should be increased almost three-fold (Kondryuk, FPU's vice-president). Similarly, the Lafarge Mykolaivcement RUC adjusted its demands for pay increases to the state's rates, but it struggled to also include inflation and currency devaluation. In fighting for the inclusion of inflation rates in pay increases, trade unions essentially take over some of the state's functions, as inflation has to be included into the statutory wage increases.

Finally, as in the case of the reproduction of the previous model of worker representation, some significant constraints have arisen in reference to the militancy of workers. The law on labour disputes imposes constraints on the formation of such militancy-related actions within trade unions. Militancy is a necessary precondition for strengthening the union and the productive articulation of workers' demands as well as for enacting the new institutional parameters of worker representation. Yet, in order to advance wage claims in a militant manner, trade unions would have to go through labour mediation and conciliation procedures. The conciliation procedure can take several months or even years and the outcomes are recommendations and non-binding statements. In both cases, at LAZy and at Lafarge, trade unions filed labour disputes with the NSMR. At LAZy the issue has never been solved, whereas at Lafarge Mykolaivcement the union leadership succeeded in putting pressure on management and thus gained wage increases.

As a result of the constraints placed on union formation, as described above, both LAZy and Lafarge Mykolaivcement RUCs and the LAZy ITU were found to be forced into ambivalent and necessarily broader roles than union organisations would normally play. In order to set the parameters of worker representation, trade unions not only have to develop their capacities for worker representation, but also in view of the deficits of the systems of governance and law-enforcement, trade unions can endeavour to enforce the institutional parameters of worker representation by developing their capacity to ensure law enforcement or a better national remuneration policy beforehand.

