

Lyudmyla Volynets

Trade Unions and Worker Representation in Ukraine

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The disintegration of socialism that occurred across Europe in the late 1980's prompted significant changes in the area of Industrial Relations. With all of the institutional changes in place, the role and functions of trade unions have been fundamentally challenged. This ongoing development of post-socialist worker representation and trade unions within new operating conditions forms the focus of this book. The book offers a process-oriented perspective of union development. The complexity of the dynamic processes of union formation is used in order to explain weak conflict-based forms of worker representation in Ukraine. A general overview of union development includes a discussion of the various currents, tensions and approaches to worker representation within reformed and independent trade unions. Using detailed examples of enterprise-based unions in Ukraine, it demonstrates the effects of the co-existence of and competition between reformed and newly emerging trade unions on the development of conflict-based worker representation in the post-socialist context.

Key words: trade unions, independent trade unions, reformed trade unions, worker representation, Industrial Relations, Ukraine

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Preface

Differences can produce conflicts. The Ukrainian trade union movement has been accompanied by such conflicts; a lack of democratic practices of pluralism and inclusion has led to inter-union conflicts and rivalries. The existence of two different trade union groups in Ukraine, in Russia, Belarus, Poland, and many other former Soviet und Central and Eastern European countries is nothing new to observers of the industrial relations systems of those countries. However, regrettably, very few observers of these countries' trade unions have extensively examined the fundamental differences and conflicts between the two trade union groups. Especially within the post-Soviet context these differences have had major consequences for the progress of the democratic formation of conflict-based collective interest representation and beyond that, for the foundation of a strong democracy, economy and civil society.

Prior to beginning the research for this dissertation, I had continually encountered and experienced those differences and conflicts personally, while working as an international secretary for one of the independent trade unions of Ukraine. I also met some very active and committed trade unionists from those popularly-called "traditional" or former Soviet trade unions as well. At the same time, these union organisations developed their activity within the strict limits of the former socialist trade union movement. Essentially, many more representatives of the former socialist trade unions simply refused to have any contact with me, even for scientific purposes. Therefore, I expected to face from the outset of my research some challenges in trying to find a common union position on and approach to different topics.

My background had been that of the Ukrainian realities. But, while working on my dissertation and living in Germany, I became more and more familiar with Western European reality, and so, I gained a new perspective of the "old" things from the past. At the same time, the more I strived to clearly highlight the terms of the grave differences between those two types of trade unions, the more I realised, how different the perceptions of the same things can be, depending on the historical, cultural and political background of the reader or observer. Especially in the developed economies, no doubt existed that trade unions necessarily represent those workers' identity and interests that are opposed to those of employers and the state. So, why would we need to regard trade unions as anything other than member-driven interest organisations? Similarly, it was taken for granted that trade unions conduct collective bargaining and conclude

collective agreements, so why would one speak about “whether” they do or not and differentiate between different types of trade unions? To say that Ukrainian trade unions would first need to fight to establish those fundamentals of the union organisation, such as a trade union identity (the same could be said of employers, too) or scrutinise whether they base their agendas and activities around collective bargaining would mean to examine something that is natural, self-evident and obvious. Essentially, dissertations are not about the obvious things of life. However, the idea having to fight to establish those natural and obvious fundamentals of the worker representation was exactly key in order to understand the Ukrainian trade union movement and the conflicts, which happened during its development.

Precisely because of the lack of fundamentals of the workers’ interest representation, those currents of workers’ anger could not so easily be channelled into the direction of collective and organisational interest representation within the still undemocratic context of Ukraine. Beforehand, when these union fundamentals had to be formed, their inclusion had to be hard-won throughout inter-union rivalries and corrupt contexts. And this context is very special. Being just a one-hour flight away from the European Union with its democratic history and culture, for workers in Ukraine, to organise in order to establish workers’ unions would mean to first accept and go through persecution and harassment, fight against corrupt local and national authorities, or even overcome the tremendous legacies of the Socialist past. What did the dividing lines between the two different groups of trade unions within this ambivalent context, as the Ukrainian context undeniably is, show then?

It was important to place stronger emphasis on those rivalries and explain them with much more clarity and in much greater detail, as they reflected directions of people’s “anger” in Ukraine. This was an anger over the lack of democratic principles in society, over corrupt governments, over Soviet mentalities, over the lack of the rule of law and non-functional arbitration and last, but not least, over low wages and bad working conditions. As David Ost (2005) once so importantly observed, promoting the organisation of anger along class lines means discouraging it along other lines, and that helps promote full democratic “inclusivity”. In the example of Poland, David Ost very well shows: if workers’ anger is not organised along class lines, more and more chances exist, that this same anger will be organised along “more intractable and politically exclusionary lines and threaten to lead to illiberalism” (36). That is precisely what happened in Poland in its first postcommunist decade, “[...] when emerging class conflicts became articulated not as conflicts over interests, but as conflicts about

identity, thus promoting an illiberal political culture that has haunted the Poland's democratisation process ever since" (179). Once again, as Ost emphasised, "class cleavages are crucial for the long-term consolidation of inclusive liberal democratic politics" (185).

Similar observations could be made about Ukraine in 2015, when this book was prepared for publication. At the end of 2013, the protests in favour of the Association Agreement with the EU started in the capital of Ukraine. Compared to the earlier protests against the fraudulent Presidential elections of 2004, the protest of 2013 ended in the use of the law enforcement bodies by the Ukrainian government against the protesters and in the massacre of more than a hundred protesters, who later became to be known as the "Heavenly Hundred". All of a sudden, the world in Ukraine was turned upside down, with the consequences of this affecting all of the whole European and world communities. At the end of January 2015 the total number of deaths had already reached more than 5,000 (according to the UN and OHCHR estimates) with more than 10,000 wounded, although the real figures are considerably higher. The "Euromaidan" revolution ended with deeply entrenched lines of division within Ukraine, with people being mobilised according to ethnic identity-lines. In addition to that, the Ukrainian case shows, how those "anger lines" can be manipulated politically in a quite skilful manner, if someone from outside intends to destroy the country's territorial integrity.

It goes without saying, that any trade union activity in Ukraine centred around the development of the fundamentals of strong union representation of workers interests' came to a halt after the war started. With it, any attempts and activities to improve workers' lives through improving their job security and work standards by the way of the peaceful democratic articulation of interest conflicts came to a halt as well. Before all them could be further built, Ukrainian trade unions needed first peace in the country. Instead of mobilising the Ukrainian workers around the increase of their wages and improving working conditions, trade unions now had to get Ukrainian workers out of the war-affected parts of the country, helping them to flee and finding them jobs, in the middle of a war and other urgent union activities.

Observing the "Euromaidan" and afterwards, I was asking myself, if it would be the same, if people's anger had been continued to be organised and mobilised along class interests and economic lines and if trade unions had been free from the constraints and hindrances of inter-union competition and rivalry. Now, I am even more firmly convinced of the need to develop better understanding of and more sensitivity than ever

to the conflicts and challenges within the Ukrainian trade union movement. If Ukraine has a chance to finally establish the fundamentals of an unshakable democracy, strong economy and active civil society, then trade unions are the first ones, we have to look at, in order to allow the formation and progress of those fundamentals.

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Acronyms and Abbreviations

AAMB	Automobile and Agricultural Machine Building Union of Ukraine
AMKR	Arcelor Mittal Kryvy Rih Steel Plant
CBMI	Construction and Building Materials Industry Workers' Union of Ukraine
CCUHWU	Central Committee of the Unions of Healthcare Workers of Ukraine
CEE	Central and Eastern Europe
CEO	Chief Executive Officer
FPU	Federation of Trade Unions of Ukraine
FSU	Former Soviet Union
FTUMWU	Free Trade Union of the Medical Workers of Ukraine
ICEM	International Federation of Chemical, Energy, Mine and General Workers' Unions
ILO	International Labour Organisation
IMF	International Monetary Fund
IR	Industrial Relations
ITU	Independent Trade Union
ITUC	International Trade Union Confederation
KVPU	Confederation of Free Trade Unions of Ukraine
KZRK	Kryvorizhya Iron-Ore Combine
LAZy	L'viv Bus Plant
NPGU	Independent Trade Union of Coal Miners of Ukraine
NSMR	National Service of Mediation and Reconciliation
PMGU	Metallurgy and Mining Workers' Union of Ukraine
PRUP	Trade Union of the Workers of the Mining Industry
RUC	Reformed Union Committee
SPFU	State Property Fund of Ukraine
STK	Council of Labour Collective
TNC	Transnational Corporation
UAH	Ukrainian Hryvna (the national currency of Ukraine)
USD	United States Dollar
USSR	Union of Soviet Socialist Republics
VPONU	Free Trade Union of Education and Science Employees of Ukraine
VTsSPS	All-Union Central Council of Trade Unions

Introduction

The disintegration of socialism that occurred across Europe in the late 1980's prompted significant changes in the area of Industrial Relations (IR). The socialist governance of IR was based on the premise that a potential conflict of interests between the working class and enterprise-level management was not possible. The interests of workers and managers were integrated through the structure of 'a labour collective'. As an enterprise-based 'community', which included all employees including the director, they embodied this same unity of interests. Trade unions thus functioned to serve these 'labour collectives', having several specific tasks: 'transmitting' the directives of the Communist Party to workers – hence the title 'transmission belts'; building workers' productivity, and fulfilling the goals of both the social and welfare departments (e.g. Ashwin and Clarke 2003, Kubicek 2004, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997).

Beginning in the late 1980's, mandatory legal preconditions for pluralistic interest representation were introduced into the IR system. This took place over the course of post-socialist transformations, with the new institutional infrastructure for IR installed from above by the governments of post-socialist countries. Originally, the present infrastructure of IR was explicitly modelled on "[...] the 'western' pluralistic model of bargaining between independent trade unions and employers' organisations" (Cox and Mason 2000: 325, Kubicek 2007, Schröder 2004). The system's parameters were defined in terms of pluralism and autonomous representation of the interests of workers as well as the freedoms of association and bargaining.

This new institutional infrastructure has posed challenges for the channels that integrate workers and their interests through 'labour collectives'. Firstly, as long as the newly installed IR framework allocates legal rights to the formation and representation of workers' independent and specific interests, workers and trade unions are provided with opportunities and incentives to construct their own strategic organisations (Wiesenthal 1999). Secondly, in order to enforce their interests within the newly installed IR framework workers and their unions are now free to structure their relationships with the state and employers in a variety of ways, spanning from cooperative to adversarial. This contrasts starkly with the previous system of IR within which the organisation, structure, functions and activities of trade unions were pre-determined by the Communist Party and the trade unions were only allowed to have cooperative relationships with enterprise administrations and the state.

With all of these institutional changes in place, the role and functions of trade unions have been fundamentally challenged. Essentially, within the new institutional structure of IR trade unions are now recognised as autonomous organisations of ‘hired workers’ whose main goal is to formulate, articulate and enforce workers’ independent interests in relation to the state and employers. This ongoing development of post-socialist worker representation and trade unions within new operating conditions forms the focus of the present dissertation.

Neither the recognition of workers’ independent interests nor the introduction of different political parameters of interest representation (pluralism, autonomy and freedoms) alone have been sufficient to guarantee representation of workers’ interests as independent from the management or the state. In post-soviet countries, “[p]ost-socialism lacks suitable forms of interest representation” (Hethy 1994b, Hoffer 1998, Wiesenthal 1999). The lack of effective forms of worker representation could, for example, be observed in falling workers’ wages and secure employment levels and decent working and living conditions. In the former Soviet Union (FSU), workers’ real wages have fallen drastically by 60-70%, reaching between two fifths and half of their 1989 value in 2001. Additionally, wages are stuck in unpaid-wage debts and employment levels have declined significantly (Chernyshev 2006, ILO 2010, Nesporova 2002, UNECE 2004). From the perspective of weak forms of interest representation, as shown in the literature, the opportunities offered within the new pluralistic institutional infrastructure were not utilised sufficiently in order to ensure strong interest representation.

As evidenced by the decline in workers’ living and working conditions, ‘very weak new [interest] associations’ (Hausner, Jessop and Nielsen 1995: 29) and trade unions especially have failed to deliver decent wages, working conditions and employment security (Arandarenko 2001, Ashwin 1999a, 2007, Ashwin and Clarke 2003, Crowley 2004, Crowley and Ost 2001, Grdesic 2008, Kideckel 2001, Ost 2005, Pollert 2000). Union weaknesses have stemmed from the unions themselves and their leaders’ traditional approaches to IR (Ashwin 2004, 2007, Kabalina and Komarovskiy 1997, Kozina 2001, Kubicek 2007, Pankow and Kopatko 2001, Pollert 2000, Vyshnevs’ky, Mishenko, Pivnyev et al. 1997). The unions’ traditional approaches are continually expressed through their active commitment to fulfilling the mandates of the state social and welfare departments (Ashwin 1997, Bocharov 2001, Crowley 2001, Gerchikov 1995, Kozina 2002, Ost 2006), thus limiting union activities to distributive practices. In particular, trade unions did not raise work-related concerns that conflicted with those of

enterprise managements, typically wages and employment levels, and more specifically, did not organise and protect workers that engage in enterprise-based conflicts around these same issues (Ashwin 2004, Kozina 2001, 2009). In the face of this incapability of the unions, Ost (2006: 310-311, Sayenko and Pryvalov 2003 have argued similarly) has claimed that, “[...] straightforward definitions about unions being organs for the defence of labour’s interests in the workplace and the advancement of their interests at large in the society do not work for post-communist society”. From this perspective of analysis, trade unions do not seem to have fulfilled their key role in protecting workers’ rights as is conceived within the pluralistic institutional infrastructure of IR.

Trade union weakness helps to understand the reasons behind weak worker representation. However, these observations are not sufficient to explain why these weak forms of workers’ interest representation have developed in the FSU *in spite of* the incentives for interest representation development provided within the institutional infrastructure of IR. Further analysis is required to understand this problem.

Firstly, while the position of trade unions has been undoubtedly weakened over the course of post-socialist transformations, the ability of trade unions to make their strategic choices was consistently ignored in the union analyses which instead treated unions as ‘objects’ of reforms (Crowley and Ost 2001). Importantly, even under constraining conditions, trade unions themselves have exercised choice over how and primarily what to present about workers (Hanke and Mense-Petermann 2001, Hausner, Jessop and Nielsen 1995, Huzzard, Gregory and Scott 2005, Trif and Koch 2005a, b). Secondly, treating trade unions as ‘an undifferentiated whole’ (Kubicek 2004), the majority of the analyses ignored the particular features of different unions established at different times and moments in the political development of the various countries. In particular, little is said in these analyses about the role of new forms of worker representation emerging on the basis of workers’ strikes and so-called ‘alternative’ trade unions. Contrary to the weaknesses observed in the cases of successor unions, newly established trade unions were found to cultivate opposition and mobilisation around workers’ interests (Buketov 1999, Crowley 2000, Hensche 1998, Kabalina and Komarovskiy 1997, Kubicek 2004, 2007, Wittkowsky 1995). As these observations show, independent unions use and support practices of worker representation that are more conflict-oriented than those of reformed unions. Given that the specific historical background of each of these unions subsequently influenced their positions within the IR, this aspect becomes critical in understanding the development of post-Soviet worker representation in a more comprehensive way.

This dissertation asks how the co-existence of reformed and newly emerging trade unions has influenced the development of worker representation in the context of the new institutional infrastructure? Such a question demands an analysis of changing interest constellations and forms of actions emerging within the arenas of IR as a result of union development. Further critical questions include: how can conflict-articulation practices be institutionalised in the face of the historical dominance of conflict conciliation? Have independent trade unions had a chance to institutionalise new forms of conflict articulation and union representation in the face of the traditional monopoly of pre-existing trade unions over worker representation? Finally, has the operation of more conflict-oriented independent trade unions provided any impetus for changes within the existing trade unions? What patterns of worker representation have been consolidated on the basis of ITUs' consolidation and its possible impact on RUCs?

The remainder of the book is structured as follows. Chapter I outlines the background for the discussion of post-socialist worker representation. Different sources of union weakness and the progress of union reform are discussed in this literature review, from which the central research question and hypothesis are also developed. Chapter II elaborates the research strategy and the methodological approach of the book. Using processual analysis, a case study research strategy is developed that helps to examine ten currently active trade unions from six different enterprises in Ukraine. Following this, the data collection and analysis methods are described and the chapter concludes with a discussion of methodological limitations.

Chapter III introduces a conceptual framework for the discussion of union formative processes. It proceeds in three steps: first the normative assumption of conflict of interests that provides the basis for understanding 'worker representation' is highlighted. Next, the two conceptual pillars, the duality of structure and path-dependency approaches, are introduced. Finally, a concept of union formation is developed that includes six complementary dimensions and three phases of union formation. The concept of union formative processes aims to facilitate the exploration of different sequences of conflict development through union formation and to identify the mutual effects and mechanisms of union co-existence that underpin post-socialist worker representation.

As the national context of IR is important for the development of any trade union and worker representation, Chapter IV introduces the institutional and operational context of IR in Ukraine around the time of Ukraine's independence (acquired in 1991). Also, the

chapter provides a general overview of union development, including the various currents, tensions and approaches to worker representation. The chapter demonstrates how certain remarkable differences in the conditions of emergence and operation of previously existing and independent trade unions as well as union competition have had deleterious effects on the development of more conflict-oriented worker representation.

Next, chapters V, VI and VII explore the co-existence of trade unions from 1989 to the present, using detailed examples of ten enterprise-based unions. The focus of these chapters is on concurrent developments within reformed and independent trade unions. The order and structure of these chapters facilitates a clear exploration of how the conflicts that have emerged between reformed and independent trade unions during their organisational phases have had further implications for the development of conflict-based forms of worker representation within the phases of operation and consolidation.

In chapter VIII the findings of the case studies from the preceding three chapters are discussed and generalised across the variety of cases. Here, the examination of inter-union conflicts highlights the concrete sequences of union development and identifies mechanisms enabling or constraining consolidation of the conflict-oriented approaches to worker representation for trade unions in Ukraine.

The conclusion of this dissertation then explores the implications of the concurrent development of reformed and independent trade unions for worker representation against the background of the path-dependency approach.

Chapter 1. Background, Research Question and Hypothesis

After the fall of the socialist regimes, the institutional systems of IR in those countries were re-configured on the basis of the pluralistic model of IR. The respective infrastructure was constructed in order to create a set of institutions, rules, procedures and behaviours consonant with a stable system of IR, which aimed at facilitating workers' input into policy-making (Bönker, Müller, and Pickel 2002, Borisov and Clarke 2006, Casale 1997a, 1999, Hethy 1994b, 1995). In line with the structuralist perspective, the fundamental belief was that the institutional framework would then facilitate the articulation of pluralistic conflicts of interests.

However, following the argument of Vyshnevs'ky, Mishenko, Pivnyev et al. (1997), under the socialist system of IR the existing post-socialist union organisations have fulfilled opposite functions in comparison with unions' classic functions and practices in representing the specific interests of hired workers. Union functions previously included the roles of social and welfare departments (Ashwin 1997, Bocharov 2001, Crowley 2001, Gerchikov 1995, Kozina 2002, Ost 2006) as well as being responsible for conflict containment; in sum, trade unions avoided raising and engaging in work-related conflicts (Ashwin 2004, Kozina 2001, 2009). In light of these characteristics of post-socialist trade unions, this path-dependent reproduction of historical (conflict-free) forms of worker representation (Arandarenko 2001, Ashwin 1999a, 2007, Ashwin and Clarke 2003, Crowley 2004, Crowley and Ost 2001, Grdesic 2008, Kideckel 2001, Ost 2005, Pollert 2000) is identified as the main cause of the failure of trade unions to deliver worker representation as conceived by the pluralistic model. From this perspective, the respective institutional frameworks that facilitate the formation of pluralistic conflicts of interests as the basis for the organisation of interests and collective actors are 'pre-emptive' (Schienstock 1992, Slomp, van Hoof and Moerel 1996, Wiesenthal 1995b cited in Beyer 2006): neither problems and conflicts of interests nor actors capable of articulating them were available at the point of the creation of those institutions. While union social and welfare functions do not potentially compromise the capability to enforce interest-based conflict, the inability to raise and engage in conflicts over the enforcement of worker interests does in itself considerably compromise the independent delivery of conflict-based worker representation.

1.1. IR Institutional Changes in the Soviet Union in the 1980s

Notably, some attempts to strengthen worker representation were made by the then General Secretary of the Communist Party, Mikhail Gorbachov, in the mid-1980s. Gorbachov heavily criticised trade unions for their “adherence to the old methods and mechanisms” of union work, as expressed by union commitment to fulfil “the directives of the Party bosses” and to serve “as an adjunct of the administration at an enterprise” (Materials of the XXVIII Congress of the Communist Party of the Soviet Union, cited in Melnik, Stetsyuk and Shmarin 2005). As part of the program of reforms entitled ‘Perestroika’, Gorbachov attempted to enhance worker participation in enterprise management by institutionally strengthening labour collectives and the voluntary negotiation of collective agreements. For instance, the Law on State Enterprises of 1987 expanded the functions of enterprise-based Councils of Labour Collectives (STK)¹ beyond their advisory functions in favour of the right of workers to co-manage an enterprise. Due to the fact that STK operated under management control (e.g. Krüger 1990, Teague 1986), the expansion of their functions did not significantly contribute to strengthening worker representation. Neither did the Law on Collective Agreements (dated 1984): a detailed template for collective agreements that was provided by law, which opened no possibilities for the negotiation of agreement provisions (e.g. Ashwin and Clarke 2003).

Meanwhile, workers’ living standards were declining, as the socialist economy inflated and workers’ wages stagnated. The problem of wages was not addressed by trade unions or by STKs. In direct response, miners’ ‘wildcat’ strikes² spread in Russia, Ukraine and Belarus in the late 1980s (Bizyukov 1996, Borisov and Clarke 1996, Clarke and Fairbrother 1993, Crowley 2000, Hoffer 1998, Tatur 1998). Workers on strike demanded increases of their wages. Two years later, in 1991, trade unions that self-identified as ‘alternative’ or ‘independent’ emerged from the foundation of workers’ strike committees (e.g. Clarke and Fairbrother 1993, Ledin 2009a, b). The demands of the workers’ strike committees and independent trade unions highlighted a growing difference between some of the interests of workers (especially wages) on the one hand, and those of the enterprise administration and All-Union Central Council of Trade Unions (VTsSPS) and STKs (especially productivity) on the other. This was the first significant period under the socialist governance in which workers’ interests were

¹ STK were decreed by the Law on Labour Collectives, dated 1983. However, at that point in time they were established as an advisory body with very limited powers (Ashwin and Clarke 2003).

² ‘Wildcat’ strikes are spontaneous, unsanctioned and unauthorised work disruptions.

advanced, expressed and articulated *in opposition* to all other IR actors, including the trade unions of the VTsSPS.³

In the context of such strikes, Gorbachov's reforms came under pressure from international organisations as well as strike committees. In line with the principles of the ILO, a set of institutions, rules, procedures and behaviours consonant with a stable system of pluralistic IR were needed. The basic belief was that if all the parties were directly involved in the policy-making process, the outcome would stand a greater chance of being effectively implemented (Casale 1999). Gorbachov reacted by abandoning the principle of a one-party-state and overturning the leading role of the Communist Party. Until these changes, the VTsSPS operated as the only possible union organisation and was controlled by the Communist Party (e.g. Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). By the late 1980's the Party had withdrawn its control over VTsSPS, thus formally recognising the autonomy of workers' interest representation and the premise of union pluralism.

Starting in 1990, changes were made to the most important parameters of worker representation. In the frontline, the very premise of socialist governance – in this context, the structural convergence of workers', administrations' and state's interests – was abolished. The Soviet institutional infrastructure was amended to provide a foundation for the expression of interest-based conflict between workers, enterprise administrations and the state. The most important modifications included the introduction of the mandatory legal preconditions of freedom of association and bargaining, and the right to strike.⁴ In line with the ILO's principles, political pluralism as well as workers' input into policy-making were realised through the creation of corporatist institutions (Bönker, Müller, and Pickel 2002, Borisov and Clarke 2006, Casale 1997a, 1999, Hethy 1994b, 1995). Underlying these changes was an expectation that tripartite structures at the national level as well as collective bargaining at the

³ Although prohibited by law, workers' strikes also periodically took place in the Soviet Union, but typically these strikes were limited to one enterprise (e.g. Clarke, Fairbrother and Borisov 1995, Grancelli 1988). The most famous strikes were ended by oppression, e.g., the use of live ammunition against striking workers in Novochoerkask in the 1960's and the continuous persecution of activists. Yet, those strikes never reached the same degree of organisation and participation as did the miners' strikes of 1989.

⁴ The most significant changes in 1990 included the Law of the USSR, adopted on 14 March 1990, that allowed the participation of other political parties, trade unions, youth organisations and other public organisations in policy-making alongside the Communist Party; the Law of the USSR on Public Associations of 16 October 1990 and the Law of the USSR on Trade Unions, Their Rights and the Guarantees of Their Activities, of 10 December 1990, recognising trade union pluralism and guaranteeing the right to establish and voluntarily join trade unions of their choice, anticipating full trade union independence in relation to their statutes, structure, election of officers, organization of their activities, meetings, conferences and congresses; the Law of the USSR on the Settlement of Collective Labour Disputes of 9 October 1990, recognising the right of workers to strike in order to enforce their occupational interests.

branch and enterprise-based levels of IR would provide a platform for actors' engagement for their own independent interests and shape actors' practices and relationships, respectively (e.g. Casale 1999, Hethy 1994b, 1995, Thirkel, Petkov and Vickerstaff 1998). In other words, the expectation was that actors' agency would follow from institutional development.

With the VTsSPS already in a compromised position, these institutional changes aggravated the situation by enabling workers to either voluntarily choose a union organisation to join or to establish their own. Furthermore and of greater significance, these institutional changes legalised the establishment of 'alternative' union organisations that emerged from workers' strikes. Essentially, with the establishment of 'independent' trade unions in 1991, the principle of union pluralism also became a reality.

Nevertheless, this new institutional infrastructure of IR has hardly resulted in the development of those same 'suitable' forms of interest representation (Hausner, Jessop and Nielsen 1995: 29; Hethy 1994b, Hoffer 1998 and Wiesenthal 1999 have similarly argued), as conceived by pluralistic IR. In the former Soviet Union (FSU), workers' real wages had fallen drastically by 60-70%, reaching between two fifths and half of their 1989 value in 2001. Additionally, employment levels declined significantly (Chernyshev 2006, ILO 2010, Nesporova 2002, UNECE 2004). Essentially, against this background of falling wages, deteriorating working conditions and diminishing employment levels, weak, fragile and toothless practices of collective bargaining and social dialogue have emerged in the FSU (Ashwin 2004, Casale 1997a, Crowley and Ost 2001, Clarke and Fairbrother 1994, Gerchikov 1995, Hethy 1994b, Kabalina and Komarovskiy 1997, Kohl and Platzner 2003, 2004, Meardi 2007, Ost 2000, Pollert 1999a, b, 2000). Although a pluralistic institutional framework for the emergence of Western-type interest associations and negotiations is in place, neither the introduction of different political parameters of interest representation nor the recognition of pluralistic interests within the new institutional framework of IR alone have been sufficient to provide structural, independent worker representation.

In order to strengthen worker representation, new parameters of interest representation need to be enacted. The question of the interest, ability and capacity of trade unions to formulate and enforce those independent interests is highly relevant in this context. As evidenced by the decline in workers' living standards, post-socialist trade unions have not possessed the required ability, capacity or even interest in

independent worker representation (Arandarenko 2001, Ashwin 1999a, 2007, Ashwin and Clarke 2003, Crowley and Ost 2001, Crowley 2004, Grdesic 2008, Kideckel 2001, Ost 2005, Pollert 2000). Alongside the new institutional infrastructure of IR, the path-dependent development of trade unions is stressed as the major reason for weak worker representation: weak unions have reproduced their traditional approaches to IR (Ashwin 2004, 2007, Kabalina and Komarovskiy 1997, Kozina 2001, Kubicek 2007, Pankow and Kopatko 2001, Pollert 2000, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). The unions' traditional approaches are continually expressed through their active commitment to fulfilling the mandates of the state social and welfare departments (Ashwin 1997, Bocharov 2001, Crowley 2001, Gerchikov 1995, Kozina 2002, Ost 2006), thus limiting union activities to distributive practices. Trade unions did not raise work-related issues and, more notably, they did not organise enterprise-based conflicts or protect those workers who engaged in them (Ashwin 2004, Kozina 2001, 2009). From this perspective trade unions have not delivered worker representation, as conceived by the pluralistic institutional structure of IR due to their inherent weaknesses.

1.2. Research Question: Institutional Design, IR Arenas and Actors' Agency

With these parameters of interest representation in place, the emergent institutional infrastructure of IR takes the handling of joint and potentially conflicting interests of workers and employers as the basis for the (re)organisation of interest representation and IR actors. Path-dependent development of unions and union weaknesses alone is, however, not sufficient to explain the weakness in these forms of representation of workers' interests in spite of the incentives and opportunities brought by the new institutional infrastructure. Firstly, from a structuralist perspective, as expressed by an expectation that unions' agency would follow the institutional development, actors have no influence on the institutions, which structure their behaviour. Such a view of institutionalisation from above is problematic due to its deterministic view of the local processes (Burawoy und Verdery 1999, Grabher und Stark 1997, Stark 1998, Wollmann 1997). Secondly, as long as worker representation based on successor trade unions remained rooted in the legacies of socialism, an off-path development is observable in spontaneous collective self-organisation of workers. Neither collective demands and actions of this kind and degree nor union pluralism could be observed in the socialist practice, nor within the VTsSPS. The departure from the path was further expressed by the establishment of alternative trade unions. In this context, a structuralist perspective is inherently limited in its capacity to elucidate the interactions between very different

unions, workers and IR institutions, while the narrow path-dependent perspective is limited in its capacity to integrate the effect of the interactions between and of changes in both trade unions. Therefore, approaches are needed that go beyond the limits of the deterministic structuralist and narrow path-dependent approaches and enable the effects of actors' agency and their learning processes in the formation of those paths to be considered.

A further way to approach actors within this dual understanding of structure⁵ is offered by actor-centred institutionalism (e.g. Mayntz and Scharpf 1995, Müller-Jentsch 1996, 2004, Scharpf 1997). Actor-centred institutionalism proceeds from the assumption that, instead of either institutions or actors taking a dominant role, actor behaviour is influenced, but not determined, by the institutional structure (Mayntz and Scharpf 1995, Scharpf 1997). Hence, the structural re-configuration of IR alone is not sufficient to spur the development of worker representation. Instead, from this point of view, emerging worker representation depends on the agency of the unions and the way that institutions are enacted. Consequently, analysing trade unions and the manner in which they make institutions socially sustainable is crucial to develop a deeper understanding of worker representation. This point further emphasises the need to research the development of worker representation from the perspective of trade unions' (re)organisation through their capacity as collective actors of a pluralistic system of IR.

Such unique and simultaneous re-building of post-socialist IR institutions and actors can be addressed as the evolution of IR arenas in the sense of Müller-Jentsch's actor-centred institutionalism (Müller-Jentsch 1996). An arena is "a complex institutional system that determines which interests and actors are to be admitted [...] [and] an enclosed area of conflict that sets boundaries for the courses of action open to the actors when they seek solutions to specific problems" (ibid: 31).⁶ When adopting this understanding of the IR changes in terms of arenas, the composition of actors and interests constitutes an important variable alongside formulated rules. Institution-making and the re-composition of union organisational landscape and roles are both points which might indicate that post-socialist IR arenas host more than the processes of interest representation. The arenas also host the processes of union (re)organisation and the concurrent development of previously existing and newly established trade unions.

⁵ In a theoretical perspective of the duality of structure, as represented by Giddens (1984, 1993, 2005), the institutional structure is not only a medium for but also an outcome of agents' action, as 'knowledgeable' actors revive the institutions thus making them socially sustainable (ibid). From this perspective, agents' "institutionalised practices" and "formulated rules" (Giddens 1984: 22) are both integral elements of the institutional structure.

⁶ Examples of IR arenas include workplace representation, sectoral and national bargaining, dispute procedures.

Firstly, the representation of workers' interests as potentially separate and distinct from those of employers has had a critical influence on worker representation in terms of the enactment of the new institutional infrastructure. A new, conflict-based institutional infrastructure of IR was installed on the basis of trade unions and practices of worker representation that were formed in a historically different context than that which existed in the FSU. The historic IR practices of the FSU structurally excluded any instance of conflict of interests between workers and enterprise administration. Soviet trade unions, in particular, have extensive experience in articulating the common interests of workers and employers. Although workers share some mutual interests with management, the representation of potentially independent and distinct workers' interests was never practically formalised under socialism. In this sense, in face of the newly installed institutional structure of IR, the processes of (re)defining union roles and functions (Rippe 1985, Schienstock 1992, Schienstock, Thompson und Traxler 1997, Slomp, van Hoof und Moerel 1996) are indispensable for the enactment of the new institutional infrastructure.

Secondly, within these processes of redefinition of union roles, both the previously existing structure of social norms and relationships (Elster, Offe and Preuss 1998, Lane 2002, Offe 1995, Stark 1995, 1998) and the previously existing "[...] routines and practices, organizational forms and social ties [...] provided assets, resources, and the basis for credible commitments and coordinated actions" (Stark 1995: 69). Yet, the changing composition of trade unions, including the patterns of workers' self-organisation, mobilisation and the establishment of 'alternative' trade unions, drives the processes that redefine union roles and functions. This aspect is highly relevant for the post-socialist context as it is marked by such legacies as the historical monopoly on worker representation formerly held by the VTsSPS and by the absence of formalised practice of pluralism and collective conflict.

Thirdly, in post-socialist countries, pluralistic IR infrastructure formally offers actors certain autonomous procedures of interest representation and conflict resolution. However, the actual representation and inclusion of actors and their interests is not as simple as the installation of such rules. While post-socialist IR arenas are formally framed in terms of pluralisation of actors and interests, does pluralisation of interests as such necessarily appear in the form of an actor's goals and agency? In particular, the organisation of 'alternative' trade unions and the increasing number and scale of conflicts in the late 1980's and early 1990's challenged the persistence of practices of representation formed previously, thus raising additional conflict over the status quo of

socialist trade unions. For example, Raiser (2002) has observed that competition between the 'old' and 'new' actors has persisted in the form of the exclusion of 'new' actors from different arenas. As long as conflicts and competition between existing and newly emerging trade unions were likely to occur, this same competition would have significant effects on the construction of IR arenas and worker representation. Essentially, inter-union competition and its consequences for the subsequent development of worker representation were barely considered in the IR literature.

When the moment of institutional re-configuration of IR is viewed with a historical institutionalist perspective, as a path-dependent process, actors' strategic interventions and learning processes become important variables for the analysis of the subsequent development of 'paths'. Actors adjust their strategies in the process of consequent development (Avdagic 2006) by reflecting and deciding what to reproduce (e.g. Pierson and Skocpol 2002, Steinmo 2008, Steinmo, Thelen and Longstreth 1994, Thelen 1999, 2002). In this perspective, as a result of actors' agency, the possibility to re-enforce an old path or to launch a new one exists at moments of 'critical juncture' and most significantly, after such moments. Although in the western IR literature, this same capacity of IR actors to exercise their strategic choices and to shape IR and its rules and norms was well recognised (e.g. Kochan, McKersie and Capelli 1984), the existing analyses of post-socialist trade unions are limited in their capacity to elucidate how trade unions have contributed to shaping 'path-dependent' development of worker representation. Only a few authors (Hanke and Mense-Petermann 2001, Hausner, Jessor and Nielsen 1995, Huzzard, Gregory and Scott 2005, Trif and Koch 2005a, b) have recognised that despite constraining conditions, post-socialist trade unions have still been able to make and impose their strategic choices. Thus, trade unions are also active 'subjects' in so far as they reflect and decide what to reproduce, adjust their strategies, and determine for themselves the forms of worker representation that they will deliver.

The current capacity of trade unions to shape IR through their choices becomes even more clear once trade unions are considered not as 'an undifferentiated whole' (Kubicek 2004), but when the particular and specific features of different trade unions are considered. For instance, workers' strikes in the late 1980's and throughout the 1990's clearly indicate a break from the previous path of worker representation. As the emerging 'independent' trade unions exclude the representatives of the enterprise administration from union membership (e.g. Bizyukov 1996, Buketov 1999, Kabalina and Komarovskiy 1997, Mandel 2004), get involved in work-related concerns and mobilise workers (e.g. Crowley 2000, Kabalina and Komarovskiy 1997, Kubicek 2004,

Mandel 2004), they oppose the forms of worker representation that are based on the premise of a 'commonality' of interests amongst workers and enterprise management. This shows a new form of worker representation that is based on a differentiation between workers' and employers' interests (in contrast to the 'commonality' of interests that is mainly represented by reformed trade unions). Essentially, from the perspective of historical institutionalism, post-socialist worker representation can be approached as a 'path-shaping path-dependent' development (Hausner, Jessop and Nielsen 1995) with the agency, interactions and interventions of collective actors playing a critical role in the development of post-socialist worker representation, be it along one path, another one, or even involving a path change.

In light of these two premises (the interaction between IR arenas and actors, and the role of agency in path-dependent and/or path-breaking development), it can be concluded that the most important analytical question is not whether existing unions (re)constitute their role through traditional collaboration with management or even develop the capacity to defend the interests of workers, despite this being consistently raised in the literature (e.g. Clarke 2005, Deppe and Tatur 2002). Instead, the focus should be on the simultaneous development of less conflict-oriented, former existing and more conflict-oriented, newly established trade unions. Adopting this focus demands an analysis of how the differences in the approaches to worker representation influenced the subsequent development of worker representation and trade unions with regards to the emerging interests and interest-based conflicts, the insitutionalisation of conflict articulation practices and consolidation of different forms of worker representation.

1.3. Literature Review: Trade Unions and Post-Socialist Worker Representation

The analysis of post-socialist worker representation⁷ has mainly been informed by the neo-corporatist assumptions that state, employers, and trade unions articulate their views and interests through the process of exchange in order to achieve a consensus on the policy-making process. The development of this literature is helpful for the analysis of trade union development. Firstly, the institutional framework of social partnership was supposed to help strengthen workers' representation by providing the channels for

⁷ The most extensive analysis of Russian IR can be found in Ashwin and Clarke (2003), as well as in numerous publications by Simon Clarke and colleagues, such as Borisov and Clarke (2001, 2003), Clarke (1995, 1996), Clarke et al. (1993), Clarke, Fairbrother and Borisov (1995); Crowley (2000), Kubicek (2004, 2007), Sayenko and Pryvalov (2003) and Vyshnevs'ky, Mishenko, Pivnyev et al. (1997) analyse Ukraine; and Mandel (2004) deals with Russia, Ukraine and Belarus.

worker participation in policy-making (e.g. Casale 1999) and for reaching compromises on conflictive issues. Secondly, post-Soviet trade unions adopted a programme of social partnership as a program of action, aimed at defending their members (e.g. Ashwin 2004, Ashwin and Clarke 2003, Borisov and Clarke 2006).

1.3.1. Corporatist vs. Pluralist Approach to the Analysis of Worker Representation

Central to the corporatist analyses of IR has been the role of corporatism in strengthening worker representation. From this perspective, the national-level characteristics of worker representation are identified by looking at the way in which trade unions are included in the national-level political process (e.g. Avdagic 2006, Casale 1997a, b, Chen and Sil 2006, Connor 1996, Cox and Mason 2000, Merkel and Sandschneider 1999, Stein 2001, Toth 2001, Wiesenthal 1999). Optimistic views argue that corporatism in CEE can be identified as ‘transformative corporatism’:⁸ it reaches a balance between the actors, their demands, interests and goals, and its function as a platform for the exchange of actors’ views and ideas, facilitating the reconstruction of IR (Deppe and Tatur 2002, Hethy 1994a, b, Iankova 1997). This position is shaped by the implicit assumption that potentially conflicting interests exist; the specific demands and interests that are balanced in the corporatist process as well as the issue of whether the articulated interests are inclusive of all existing trade unions and groups of interests are not discussed. In contrast to this view, corporatism in CEE has been called ‘illusory’ (Ost 2000), as it only provided “an institutional shell” or “façade” for actors’ interactions but failed to provide a “politically stabilising and economically inclusionary class compromise” (Ost 2000: 504). Thus, corporatism failed to guarantee the stable accommodation of actors or strengthen worker representation (Connor 1996, Crowley and Ost 2001, Kubicek 2004, Mailand and Due 2004, Pollert 1999a, b, Thirkell, Petkov and Vickerstaff 1998, Mailand and Due 2004).

In the FSU, this particular version of corporatism has not developed as an endogenous struggle of pluralistic interest conflicts. The pre-conditions for effective corporatism (i.e. that partners should be autonomous and independent, enjoy equal rights and parity and have the capacity to make and adhere to the agreements), were not present in any substantive measure in post-socialist IR where the distinction between labour and management was less than clear (Aguilera and Dabu 2005, Borisov and Clarke 1996,

⁸ The ‘transformative corporatism’ approach considers emerging corporatism to be “a specific hybrid form which dynamically co-ordinates the fragile balance between the variety of public and private groups, and political and economic demands, interests and goals [...]” and consequently, is “a viable perspective of adaptability and survivability for these countries” (Iankova 1997: 73).

Clarke and Fairbrother 1994, Ost 2002). The effective functioning of the corporatist institutional framework is thus inhibited as it is installed from the top, with exogenous support, and because it is a model without historical, cultural and political roots in the society.

As the question of *which* interests and conflicts are articulated within the process of exchange is not discussed in the corporatist analysis, this perspective is misplaced to analyse whether or to what extent reformed and independent trade unions are included into the corporatist structures or whether a unified position of trade unions could be represented. Nevertheless, it still provides several important arguments in its analysis of the post-socialist trade unions' underlying intentions in their choices for corporatism. Although post-socialist unions have constantly emphasised the representation of workers within the corporate bodies, the very choice of partnership was "a pragmatic response" to uncertainties rather than a demonstration of actors' commitment to the ideology of partnership (Hethy 1994b: 333). This turned partnerships into a platform to advance specific opportunistic interests (ibid, Borisov and Clarke 2006).⁹ While previously existing unions looked to tripartism in order "to secure their survival", the newly established unions participated in order to establish a foothold in the area of IR (Clarke 2005, Hethy 1994b: 333).

Connor (1996) has observed that union attempts to coordinate the policy process at the national level contrasted starkly with enterprise-based conflicts relating to worker representation. Therefore, he questions the premise that under post-socialist conditions the corporatist design fits well with the pluralist contents of the structure, to the extent that the countries:

"locked into state corporatism at an earlier stage of development will have hard going with any such transition [...] It is difficult to imagine a politically continuous transformation towards societal corporatism; rather, one suspects that the state-corporatist system must first degenerate into openly conflictual, multifaceted, uncontrolled interest politics - pluralism in other words [...]" (Connor 1996: 19-20).

Given the context-specific developments of the post-socialist countries, an incoherent constellation of different levels of worker representation – identified as hybrid IR systems (Pollert 1999a, 2000) – has emerged. 'Hybrid' in Pollert's terms refers to the vertically disconnected levels of worker representation combining coordinated national tripartite representation and fragmented enterprise-based representation of workers.

⁹ With specific reference to governments, for example, Ost (2001: 91) points out that "the government needed this [tripartism], it seemed, more to mollify the EU and ILO than to work with the trade unions," while business used tripartite structures to lobby for regulations advantageous to their interests (e.g. Sayenko and Pryvalov 2003).

This sort of criticism of the corporatist approach to the analysis of post-socialist IR highlights the significance of pluralistic pre-conditions that need first to develop in order to feed the formation of stable corporatist institutions. The critical view was further developed in another strand of literature, which shifts towards the identification of more specific conditions and conflicts in terms of worker representation (e.g. Avdagic 2003, Deppe and Tatur 2002, Kubicek 2004, Mense-Petermann and Hanke 2001, Thirkell, Scase and Vickerstaff 1995, Trif 2005, 2007), including those at the enterprise-based level.¹⁰ In particular, Clarke (2005: 2) has made the case for focus to be applied to inherited structures: trade unions have “to construct their own trade union practices,” and not only on the basis of the institutional framework. Thus, the focus of analysis needs to be shifted to enterprise-based conflicts relating to worker representation that are characteristic of the complex interactions between workers, unions and management.

As this micro-oriented perspective on IR indicated, “union structural dependence” on management and the state (Ashwin 2004: 42) inhibited the revival of conflict-based worker representation as it resulted in the interpretation of partnership and bargaining as “conciliation at all costs”, thus excluding any recognition of conflicts. Trade unions understood conflict between workers and management as “a pathological deviation from the norm” (ibid: 23, 40). As “[p]artnership without conflict is unlikely to deliver many benefits” (ibid: 40), such commitment of trade unions to the amelioration of social conflict undermined worker representation in those situations where workers’ interests conflicted with those of employers or the state. It further “[...] led the trade unions to attempt to suppress rather than to encourage the collective mobilisation of their own members” (Ashwin and Clarke 2003: 7). Thus within the framework of social partnership trade unions could “[...] secure their institutional future not on the basis of their strength as representatives of organised labour, but [...] within the limits of their existing form” (ibid: 263). At the enterprise-based level, social partnership has therefore provided a framework, within which trade unions can retain or reconstitute their traditional path.

¹⁰ Extensive case study research was published by Simon Clarke and colleagues from the University of Warwick and the Russian Institute for Comparative Labour Relations Research (ISITO). For the most comprehensive publications see Crowley 2000, Kubicek 2004, Mandel 2004, Sayenko and Pryvalov 2003, Vyshnevs’ky, Mishenko, Pivnyev et al. 1997 for the description of Ukrainian trade unions; Ashwin and Clarke (2003), Borisov and Clarke (2001, 2003) for the description of Russian trade unions; Borisov and Clarke (2001, 2003), Clarke (1995, 1996a, b), Clarke, Fairbrother and Borisov (1995), Clarke, Fairbrother, Burawoy et al. (1993), for the description of the internal changes in industrial enterprises. Further enterprise research on post-socialist unions has also been done by Ashwin (1997), Frege (2000), Mandel (2004), Pollert (1999a, b), Thirkell, Petkov and Vickerstaff (1998), Trif (2005).

Except from union militancy, the historically formed practices of unions and the relationships and networks feeding the path-dependent survival of post-socialist trade unions are highly relevant for a more critical understanding of the dynamics of worker representation. For instance, by use of informal bargaining between workers, unions and management (Alasheev 1995a, Ashwin 2007, Clarke 1995) and paternalist union-management relations (Alasheev 1995b, Clarke and Fairbrother 1994, Kabalina, Monousova and Vedeneeva 1996, Logue, Plekhanov and Simmons 1995, Samara Research Group 1996) trade unions were able to ensure their inclusion into IR arenas in addition to their path-dependent survival under the new, pluralist institutional conditions. At the same time, the new institutional framework has created little pressure or, at least, few incentives to develop the basic attributes and practices of conflict-based representation. Alongside the freedom to resort to strike, the legal pressure to follow negotiation and mediation procedures prior to collective mobilisation established bureaucratic and legalistic channels for conflict articulation as the first means. Meanwhile, it deprived trade unions from the possibility of building organisational strength at the very beginning of any conflict, when the readiness of workers to protest would usually be at its highest.

1.3.2. Employers in Emerging Market Economies

A short outline of management-related developments is useful to deepen the understanding of unions and worker representation. The development of a market economy pre-supposed the formation of ‘managerial stratum’, acting in the interests of capitalist employers (Clarke 1996a, Eyal, Szelényi and Townsley 1998, Morrison 2008, Soulsby and Clark 1996, Steinle and Bruch 1996). This formation of ‘capitalist’ employers is understood “[as] a historical process to be ascertained rather than assumed [which] cannot be reduced to change in corporate culture [...], a shift in professions [...] or generational turnover [...]” (Morrison 2008: 213). This process of the development of ‘capitalist’ employers included certain, previously institutionalised, practices (e.g. Clarke 1995, 1996, Gaciarz and Pankow 1998, Logue, Plekhanov and Simmons 1995, Morrison 2008, Sayenko and Pryvalov 2003) in addition to adaptations to demands imposed by market conditions (Clark and Soulsby 1999).

Two key inherited characteristics of the Soviet management style that were informed by managers’ experiences with socialism (Connor 1996, Kozina 2005, Puffer 1996) are of particular interest for the further discussion of trade unions and worker representation: paternalism and authoritarianism. Managers’ paternalism has been demonstrated

through the provision of welfare services and employment guarantees, even in times of enterprise standstills (e.g. Bizyukov 1995, Clarke 1995, 1996, Clarke and Fairbrother 1994, Sayenko and Pryvalov 2003).¹¹ Only rarely has paternalism been channelled into fulfilling needs for decent wages (Clarke 1999, Schwartz and McCann 2007). In the post-socialist context the consequences of paternalism are detrimental for worker representation, as paternalism precludes management-worker conflict and collective action (Clarke and Fairbrother 1994, Crowley 2000, 2001). First, as Ashwin (1999a, b), Crowley (2000) and Zimmer (2002) have argued, managers' paternalism has contributed to workers becoming dependent on the work institution for their basic needs (both as a human and as an employee). Thus, by using the selective provision of enterprise benefits, managers could prevent workers' collective actions (Crowley 2000), the risk of losing enterprise-based benefits if workers voiced demands acting as a deterrent. Secondly, the continuing provision of welfare services by employers (e.g. through the transfer of funds for worker recreation to the social insurance fund as well as to trade unions) also re-enforced the traditional, social and welfare oriented function of trade unions, thus providing the basis for the responsibility for this same function to remain the preservation of existing trade unions.

Soviet-style paternalism is tightly intertwined with managerial authoritarianism (Clarke 1996b). For over 70 years Soviet management style has been authoritarian, assertive and immune to criticism; characteristics that continue to persist (Warner, Edwards and Polonsky 2005). By means of both pressure and repression, Soviet management excluded all oppositional union representation of workers, which threatened to raise issues that could potentially oppose managers' interests. While remaining hostile to unions that take pro-active roles (ibid, Clarke 1995, Kozina 2005, Morrison 2008), management has generally facilitated the preservation of traditional forms of conflict-free worker representation.

Despite the pervasiveness of paternalist-authoritarian managerial practices, some variation in managerial approaches to IR did start to appear. For example, Thirkell, Petkov and Vickerstaff (1998) and Pollert (1999a) found considerable variance in managerial attitudes towards unions. Sometimes reformed unions were accepted, sometimes they were replaced by work councils and sometimes they were marginalised and/or eliminated. In Russia, cases exist where market-oriented managers are simply

¹¹ Gerchikov (1995) disagrees with this point arguing that management only kept workers on when enterprises faced financial problems due to the fact that it was cheaper to retain workers as employed 'on paper' than to dismiss them in Russia at the time. Thus, it was not due to management's paternalistic care for workers but rather, simply an instrumental cost-saving calculation.

indifferent to the existing unions (Clarke 1996b). In other cases, senior management of the large former Soviet enterprises were also found trying to seize opportunities to dismiss formal participative mechanisms (e.g. Gerchikov 1995, Ost 2009, Thirkell, Scase and Vickerstaff 1995). Extreme examples of anti-union managerial action are more prevalent in start-ups and genuinely private enterprises (Pollert 1999a). Here IR practices are determined unilaterally by management through internal company policy, characterised by the informalisation and individualisation of worker-employer relations as well as reduced formal protection for employees (Kozina 2005, Thirkell, Scase and Vickerstaff 1995, Trif 2000). Trade unions and collective bargaining are typically rejected outright amongst small and micro firms (Kozek 1993 in Thirkell, Scase and Vickerstaff 1995, Webster, Bischoff, Xhafa et al. 2008) as well as in the proliferating informal economy.

The most dramatic changes in terms of IR were predicted in foreign-owned companies (e.g. Martin and Christescu-Martin 2006), whose strategies were expected to be formulated from both home and host country influences and management culture (Dörrenbacher, Fichter, Neumann et al. 2000, Kahancová 2008, Thirkell, Petkov and Vickerstaff 1998, Tholen 2007). Indeed, as case studies of foreign enterprises in the region demonstrate (e.g. Cheglakova 2008, Kvinge and Rezanow Ulrichsen 2008, Mako and Novoszath 1994 in Thirkell, Petkov and Vickerstaff 1998, Pollert 1999b, Tholen 2007, Tholen and Hemmer 2004, Toth 1998), transnational corporations (TNC) reveal a wide variety of IR strategies and union-management relations across the CEE countries. Furthermore, as Kubicek (2004) notes, the common assumption that TNCs would always take anti-union stances did not prove to be correct across the whole FSU. In some cases, labour weakness and submissive positions made explicit anti-union stances unnecessary.

While paternalism and authoritarianism in managerial styles have been a familiar feature of socialist IR, emerging hostile and dismissive managerial styles were not present, let alone common, under the socialist system of IR. The emergence of these managerial styles demands that trade unions engage new approaches to worker representation that adapt to the changing managerial approaches to IR, including unions' involvement into work-related conflicts.

1.3.3. Trade Unions Under the Conditions of Post-Socialist Transformation

The literature on post-socialist trade unions is dominated by the perspective of union weaknesses (e.g. Arandarenko 2001, Ashwin 2007, Ashwin and Clarke 2003, Crowley and Ost 2001, Crowley 2004, Grdesic 2008, Kideckel 2001, Ost 2001, 2005). Given that union strength is characterised by “[...] the ability of unions to secure material rewards for its members and exercise a degree of authority in the workplace and over national policy” (Crowley 2004: 400), post-socialist unions have turned out weak actors. In this context unions’ weaknesses were most commonly measured by statistical indicators such as average wages, union density, scope and effectiveness of collective bargaining, and strike activity. However, the validity of these indicators accross post-socialist countries must be questioned, as they provide incomplete and unreliable information.¹² The unions’ ability to facilitate interest-led conflicts and achieve gains during conflicts over wages, employment, working conditions or alike, would serve as a more appropriate basis for the discussion of union strengths or weaknesses.

Alongside the specific differences in defining union weakness, the authors detailed the constraints on the development of strong trade unions, either in relation to context (structural factors and contextual legacies) or in relation to unions themselves (their lack of ideology and the preservation of traditional roles and functions). The analyses, however, have not offered a comprehensive account of union weaknesses that would combine the interaction between both structure- and agency-related constraints, asides from very limited exceptions.¹³ Additionally, observations about the constraints on the development of strong trade unions have mainly been based on the analysis of successor trade unions.

Firstly, the literature highlights structural factors that weakened unions (Arandarenko 2001, Ashwin 1999a, b, Casale 1997a, Chen and Sil 2006, Clarke 2005, Kideckel 2001, Kokanovic 2001, Kubicek 2004, Mandel 2004, Pollert 2001). The context of transformation,

“a complex set of structural factors – including [...] the horizontal and vertical fragmentation of labour, the deep and prolonged economic crisis, the prevalence of unpaid leaves, the domination of social ownership and the delay of privatisation, and the structure of collective bargaining – best

¹² For example, the information on how many members trade unions have is self-reported by trade unions in their application to participate in the tripartite bodies. Unions have a structural incentive to over-report membership numbers, as the number of seats in the bodies is distributed between trade unions based on their number of members (Clarke 2005, Crowley 2004, Kubicek 2004).

¹³ The study of Mandel (2004) is an exception in this regard. Mandel finds that union weaknesses were the result of the impact of both objective (responding to the context) and subjective (inherent to trade unions themselves) factors. However, in relation to subjective factors, Mandel discusses the union leader’s resistance to change as the only subjective factor, thus leaving other factors inherent to unions unconsidered.

explains labour's weakness and apparent ineffectiveness in preserving its relative and absolute position (Clarke 2005: 176).

From this perspective, due to the fact that different structural factors were inherent to the union operating context and were outside of union control and immediate influence, trade unions had “[...] to constitute a representation of workers’ interests under conditions that make such representation extremely difficult, if not entirely undesirable” (Deppe and Tatur 2002: 92). This set of structural factors, therefore, explains the failure of trade unions to deliver sufficient worker representation.

Certainly, structural factors, such as long economic recessions, privatisation and the lack of political stability constrained the possibilities for trade unions to deliver reasonable conflict gains. These included wages and their payment without delay, for instance an issue which is discussed more extensively in Chapter IV. Nevertheless, in spite of these constraints, which existed in the operating environment of all trade unions, some unions have still been successful in conflicts over wages and employment (Hanke and Mense-Petermann 2001, Huzzard, Gregory and Scott 2005, Mandel 2004, Trif and Koch 2005a, b). As such successes have showed, “[...] even in the most daunting ‘objective’ circumstances, an independent, union-building strategy is possible and can yield gains for members” (Mandel 2004: 195). As structural factors undeniably weaken trade union capacity to enact interest-based conflict, these examples of trade union successes show that the structural factors alone cannot sufficiently explain the failures of trade unions to deliver conflict-based worker representation. Especially in deteriorating working conditions (e.g. in cases of lay-offs and increasing wage delays) workers are more likely to organise and to strike. Thus, structural factors can be used as a way to turn adverse circumstances into union political and organisational successes. As the structural conditions prompted increasing anger from the workers, this could have potentially facilitated and been used to develop collective articulation of work-related conflicts.

Secondly, one body of literature seeks to find an explanation for union weaknesses in the legacies of socialism (e.g. Connor 1994, Crowley 2004, Crowley and Ost 2001, Pankow and Kopatko 2001, Pollert 2001, Thirkell, Petkov and Vickerstaff 1998, Vickerstaff and Thirkell 1997). These broader and more general understandings of legacies include those legacies that are inherent to union operational contexts and cannot be easily changed solely by union efforts. Examples include low levels of trust and scepticism towards trade unions; legitimacy of trade unions; and weak worker agency (Crowley 2004, Vanhuysse 2007). This view of union weaknesses implies that trade unions tried to develop conflict-based worker representation, but workers’ mistrust, passivity and

scepticism inhibited unions' attempts to mobilise workers and engage them in work-related conflicts.

Undoubtedly, legacies inherent to the operating context including the communist background of trade unions, the involuntary membership in Soviet trade unions and workers' scepticism towards unions have had weakening effects on union development. Concurrently, the bulk of workers remained members of trade unions in spite of their scepticism towards those same unions and even in cases in which these same workers received no assistance from trade unions. Additionally, numerous cases of local protests that took place outside trade unions under the socialist (e.g. Grancelli 1988, Mandel 1994) as well as post-socialist conditions suggest that workers' passivity and scepticism alone are not sufficient to explain the reasons behind weak worker representation. Workers' protests conducted in opposition to the VTsSPS trade unions and STKs indicate that the institutional legacies have little explaining power in cases of workers' self-organisation outside the existing trade unions.

Thirdly, trade unions' weaknesses stem from the lack of class ideology (Crowley and Ost 2001, Frege 2000, Ost 2001, 2005, 2006, 2009, Pollert 2001, Sznajder Lee and Trappmann 2010). Contrary to the socialist premise of the structural 'commonality' of interests, the lack of 'class ideology' refers to the failure of trade unions to clearly position themselves on the side of hired workers, in other words, in clear opposition to enterprise management or the state. Despite the current situation of union ideology and leadership being informed by legacies, union ideology (specifically 'class ideology') can only partly be seen as *the* legacy of socialism. Identity and ideology is also affected by current pressures and challenges, and in turn unions' responsiveness to them. In this line of thinking union leadership is given most attention. Union leaders are highlighted as the vanguard of 'class discourse', whose key role is in advocating the existence of antagonistic workers' and employers' interests. However, while ideas have power "to change the perceptions a group [has] of its own interest" (Hall 1989 in Ost 2005: 38), post-socialist union leaders "did not believe in unionism" (Ost 2009: 19). According to these arguments, as "the crisis of socialist ideas [...] helped de-legitimise class cleavages" (Crowley and Ost 2001: 229), union leadership had no clear idea of what their unions' role and functions were in terms of providing worker representation within the pluralistic framework of IR. Consequently, the expected union reforms never came (e.g. Mandel 2004) and union leaders did not emphasise potential conflicting interests as being the basis for worker representation.

The issue of weak union ideology has had a critical influence on strong worker representation. The historic overlap between trade unions and 'labour collectives' and the confluence of workers' and managers' interests has certainly inhibited the development of independent conflict-based worker identity. At the same time, the pattern of representing exclusively 'hired' workers' interests that consequently contribute to developing labour-class identity and ideology are detailed in the various studies of miners' strikes and union reforms (Crowley 2000, Kubicek 2004, Mandel 2004, Vasi 2004). Independent unions, for instance, explicitly exclude management personnel from membership in the union, maintaining that this contradicts the very idea of a trade union. As these instances show, the lack of a class ideology and the union leaders' inability to define a new union role and functions in terms of interest-based conflicts cannot sufficiently encapsulate the reasons for weak worker representation. Rather, attention should be paid to the conditions under which the premise of conflict of interests could have been used as the basis for the organisation of interests and organisations, or even reorganisation of existing trade unions.

Fourthly, the unions' weaknesses stem from their preservation of traditional approaches to worker representation (Ashwin 2004, 2007, Clarke 2005, Clarke and Fairbrother 1994, Kabalina and Komarovskiy 1997, Kozina 2001, Kubicek 2007, Pankow and Kopatko 2001, Pollert 2000, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). Essentially, trade unions declare themselves 'hired' workers organisations, standing in opposition to enterprise management, but preserve traditional (social and welfare, albeit conflict-free) union approaches to IR. Although such union conservatism is the expression of union legacies, the inclusion of this literature is useful as it has further consequences for the enactment of different IR institutions. For example, in continuity with the socialist practice, collective bargaining and agreements often remain embedded in formal procedures and documents, with a high proportion of agreements being implemented incompletely and inconsistently and merely renewed rather than effectively renegotiated (Ashwin and Clarke 2003).¹⁴ The strategic interest in preserving the existing forms of worker representation is a key issue. Trade unions and their leaders may have an interest in and benefit from preserving their traditional functions and so preserve traditional forms of worker representation. For instance, the provision of holiday vouchers and organisation of recreational activities has helped trade unions to

¹⁴ One example of the formalism of enterprise-based collective bargaining is the situation cited in Ashwin and Clarke (2003) in which the president of one hospital union signed an agreement prepared by the chief doctor without knowing what it contained, as she has not read it. Ashwin and Clarke (ibid), state that many of the provisions of collective agreements are violated on a regular basis and without penalty, and yet trade unions rarely counteract any of these violations.

retain the bulk of their membership, property and even ensure additional employer-provided resources for such social services.

The studies done by Clarke and Fairbrother (1994), Clarke, Fairbrother and Borisov (1995), Crowley (2000), Fairbrother and Ilyin (1996), Kubicek (2004), Mandel (2004), Morrison and Croucher (2010) and Thirkell, Petkov and Vickerstaff (1998) show that the over-generalised argument for blanket preservation of the traditional roles and functions of unions has not proved correct in all cases. When compared to the bulk of trade unions (which reproduce the historic model of social and welfare, albeit conflict-free, unionism) these studies identify successful cases of trade unions that developed new functions and strategies in the area of worker representation by raising and articulating work-related conflicts. Thus, not the preservation of traditional approaches to worker representation as such, but rather, the potential opportunities for and implications of the articulation of conflict of interests within or outside the existing union functions are key for our understanding of worker representation.

Each of the four interrelated explanations discussed above contribute to an understanding of the constraints on worker representation in the FSU. At the same time, as shown above, none of these explanations alone are sufficient to explain why this weak worker representation has emerged in the FSU *in spite of* the institutional incentives being installed there. The union weaknesses hypothesis is too limited in its capacity to explain the development of worker representation as it leaves out trade unions that have demonstrated an interest and capacity to represent pluralistic conflicts of interests. These cases show that general observations of union weaknesses may not necessarily apply equally or correctly for cases of different trade unions. More specifically, it leaves out many important features of trade union representation that were found in cases of newly emerging 'independent' trade unions. For instance, independent trade unions opposed the idea of simultaneously representing workers, enterprise administration and labour collectives. Also, they made use of the pluralist framework of IR when organising collective actions and mobilising workers (e.g. Bizyukov 1996, Buketov 1999, Kabalina and Komarovskiy 1997, Mandel 2004). These union practices have emerged in the FSU despite the structural constraints and context-related legacies. Workers' passivity and scepticism towards union representation were apparently overcome in these cases. Similarly, arguments for the lack of an ideology of the conflicting interests and the preservation of union traditional roles and functions are particularly inappropriate in the cases of independent unions and even some of the reformed former socialist trade unions as well. In order to go beyond this narrow perspective and to

include these issues, it is necessary to examine the process of union development in relation to the involvement in conflict by both reformed and independent trade unions.

1.3.4. Union Revitalisation and the Articulation of Conflicts

The development of the trade unions' capacity to represent hired workers requires, in the first instance, a capacity to raise potentially distinct or separate workers' interests. As part of a broader representative capacity guaranteed by trade unions, critical moments of conflict and dispute clearly reveal the capacity of trade unions to represent workers. As Ashwin (2004: 27) stresses, in post-socialist contexts, conflicts and union responses to them are important opportunities for assessing "[...] how far they [unions] have broken the golden chains of preferment in order to act as representatives of their members". The close analysis of conflict situations and union agency within them is thus critical for fully exploring the degree of changes from previous representation and conflict practices.

The few existing studies of post-socialist union activity in conflict situations (Ashwin 2004, Clarke 1996a, b, Crowley 2000, Kozina 2001, Pollert 2001, Trif and Koch 2005a) point to considerable continuity, with the Soviet practice generally characterising post-socialist union approaches to conflicts. This continuity specifically refers to unions' attempts to contain conflicts or, at best, to direct them into the bureaucratic system of arbitration and conflict-resolution (e.g. Ashwin 2004, Ashwin and Clarke 2003, Grancelli 1988). Kozina (2001) has shown that only in cases where the process of conflict development could no longer be prevented were unions ready to take leadership in such collective conflicts. It is clear that arbitrating conflict also means the de-mobilisation of workers and avoidance of any collective conflicts, a stark contrast to situations where conflict is generated within enterprises by worker-mobilisation, especially mobilisation under conditions that are unenforced by law. Additionally, although useful in its own way, this union strategy for solving individual and collective conflicts has not been effective at building the organisational capacity to represent workers. As Ashwin and Clarke (2003: 268) point out, bureaucratic, legalistic and individualistic means of pursuing the interests of trade union members undermines the attempt to develop collective organisation based on active membership as such an approach to conflict articulation is "[...] implicitly and explicitly posited as an alternative rather than as a complement to collective action". Essentially, such union approaches to conflict articulation have had implications for conflict-based worker representation.

As Kozina (2001) and Pan'kova and Ivashchenko (2006) have argued, the workers' preference for solving conflicts through legal channels could possibly explain the reproduction of conflict containment by unions. Under socialism, Soviet trade unions have functioned as "an entity external to individual workers and work collectives [...]" (Ashwin 1999a: 249). Consequently, such workers' collectivism (and thus trade unions) was not perceived or realised as the product of the collective organisation of individual workers (Ashwin 1999a, b). Thus, unions were not perceived by their members to be organisations that are responsible for articulating collective work-related conflicts. In order to strengthen worker representation this point would suggest that, having inherited members that are sceptical towards unions in their role as representatives in collective conflicts, trade unions were faced with the task of re-defining basic union-worker understanding of their representation and purpose. Essentially, studies of union development do not show how responsive unions have been to this need to reformulate members and workers' passive attitudes through, for example, advocacy and education. While training unionists across the FSU himself, Croucher (2004) has shown that union education has proved to be effective in breaking down the passive attitude of leaders and workers.

At the same time numerous cases of local protests outside the existing trade unions in the Soviet Union (e.g. Grancelli 1988, Mandel 1994) and afterwards suggest that workers' attitudes alone are not sufficient to explain these defensive union approaches to conflicts. Studying underground strikes, Bizyukov (1996) points out that many members of the reformed union still participated in the strike organised by the independent trade union despite the fact that the leadership of the reformed union had no involvement with the strike. This indicates that worker activism during conflicts was present, but this same activism "[...] was more closely connected with their personal positions than with the position of their trade union" (ibid: 257). Also, this further indicates the discrepancy in the positions of union members and some union leaders during conflicts.

Notably and particularly in the work-related conflicts Bizyukov (1996) and Kozina (2009) find, there are differences between previously existing and newly established trade unions. While reformed trade unions tend to contain conflict articulation or, at best, imitate activities in support of collective actions, newly established trade unions assist workers de-facto through their active involvement in collective conflicts. In this context, for instance, Borisov and Clarke (2006: 620) have made the case that within their commitment to maintaining social partnership, reformed trade unions may

conduct some days of action in order to show that these same trade unions “[...] can channel protest into harmless symbolic demonstrations and that they can secure the negotiated resolution of industrial conflict without resort to strike action”. In this respect, this position of reformed trade unions towards the articulation of conflicts “[...] has led them to discourage and even suppress displays of militancy by their primary organisations” (ibid, Kozina 2001, 2009, Pan’kova and Ivashenko 2006 have argued similarly).

From these analyses it is not clear how institution-led opportunities for conflict articulation (in the form of active and responsive unions) are made known and available to workers who find themselves either in work-related conflicts or even in spontaneous, ‘wildcat’ protests. While many of these workers’ protests are taking place in an unorganised, spontaneous manner, they raise some opportunities for unions to build on such situations, where workers define and highlight their interests as being distinct from employers. Furthermore, this literature says nothing about the relationship between the existing trade unions that articulate conflict through the institutional channels of conflict-mediation and more conflict-oriented, newly emerging trade unions that exercise conflict articulation through collective action. It is highly likely that worker representation is affected by this co-existence of different conflict articulation approaches between existing and newly emerging trade unions.

1.4. Conclusions for the Research Design and the Argument of the Dissertation

The literature review above has shown that conflict-based collective representation, as part of a broader representation guaranteed by trade unions, has not yet emerged in the FSU in a comprehensive way. The general tenor in the literature is that the institutional framework for the expression and articulation of conflicting interests is in place. Nevertheless, weak trade unions reproduce the historical path of worker representation through the administration of enterprise-based welfare and non-wage services as well as through the practices that contain conflict articulation. As the literature review has demonstrated, particular features of different trade unions are ignored as are those cases of trade unions, which depart from the conflict-free path. A more differentiated approach to the co-development of these trade unions is therefore necessary for understanding worker representation.

First, as early analysis of workers’ strikes and independent unions shows (Bizyukov 1996, Borisov, Bizyukova and Burnyshev 1996, Borisov and Clarke 1996, Clarke and

Fairbrother 1993, Clarke, Fairbrother and Borisov 1995, Crowley 2000, Fairbrother and Ilyin 1996, Vasi 2004), conflicts of interest have served as the basis of organisation amongst early 'independent' unions in cases, where these unions have emerged from workers' spontaneous strikes. Independent unions were found to cultivate opposition and mobilisation around workers' interests (Buketov 1999, Crowley 2000, Hensche 1998, Kabalina and Komarovskiy 1997, Kubicek 2004, 2007, Wittkowsky 1995). At times, they explicitly excluded management representatives from membership in the union, maintaining that their inclusion would contradict the very idea of a trade union (e.g. Schneider 1992). As these observations show, independent unions use and support practices of worker representation that are more conflict-oriented than those of reformed unions. As the cases of some successor trade unions additionally show (e.g. Fairbrother and Ilyin 1996, Mandel 2004, Thirkell, Petkov and Vickerstaff 1998), some active attempts to reform or establish new trade unions do not conform to the argument for the path-dependent reproduction of historical forms of worker representation either.

These studies of union development stress the role of agency within the institutional structure of IR, that of union leaders, rank-and-file members and even agency as a result of workers' spontaneous action, in fostering a departure from the path-dependent development of worker representation. Albeit casually (e.g. Fairbrother and Ilyin 1996), the competition between different, particularly reformed and independent, trade unions is also mentioned as a factor which has led to such cases of departure. This observation has not yet been analytically explored and developed. Thus, the precise mechanisms and consequences of these co-existing cases of path-dependent and path-breaking union development remain undefined. The impact of the co-development of these trade unions and their conflict articulation practices on the enactment and reconstruction of the overall institutional system of conflict-based worker representation also remains unclear.

Surprisingly, in spite of these clear examples of the departure from the path-dependent reproduction of worker representation, these same independent unions were repeatedly reported in the literature to have had little influence and only 'marginal relevance' to IR (e.g. Borisov and Clarke 1996, Clarke and Fairbrother 1994, Clarke, Fairbrother and Borisov 1995, Hoffer 1998). The position in reference to 'independent' unions expressed by Ashwin and Clarke (2003) seems to be particularly common in the literature on post-Soviet trade unions. While Ashwin and Clarke aim "[...] to provide as comprehensive an overview of the development of trade unions and industrial relations

in post-Soviet Russia as is possible [...]”, they chose to “pay little attention to the alternative trade unions, which [they] justify by their marginal relevance to contemporary industrial relations and trade union development in Russia” (ibid: 2-3).

This conclusion is further more surprising given the constraints and serious barriers to the development of independent trade unions, particularly at the enterprise level. The obstacles confronting independent trade unions were consistently provoked, when independent union activities threatened ‘to disrupt the established occupational and political hierarchy’ (ibid, Clarke and Fairbrother 1994, Clarke, Fairbrother and Borisov 1995). The independent trade unions’ development was marked by resource-related constraints and the difficulty to extend their organisation across many sectors (Borisov and Clarke 2006, Clarke, Fairbrother and Borisov 1995, Hoffer 1998). Also, ‘serious barriers’ (e.g. Borisov and Clarke 2006, Clarke and Fairbrother 1994, Kabalina and Komarovskiy 1997, Kubicek 2004, 2007, Mandel 2004), including the opposition of the state and employers, have accompanied the development of the independent unions. Under these constraints, as some authors (Borisov and Clarke 1996, Fairbrother and Ilyin 1996) conclude, independent unions have reproduced “the structures and practices of their traditional counterparts” (reformed trade unions) and “were forced into the same compromises with management as characterised the traditional trade unions” (Clarke 2005: 14). In this view, independent trade unions are not seen to have departed from the path of socialist trade unions.

However, drawing conclusions about the independent unions’ role in fueling the formation of conflict-based worker representation requires more analytical and empirical rigour. Specifically, it is not clear which unions are included in the category ‘independent’,¹⁵ or what legacy the activities of ‘independent’ unions have left in terms of worker representation and conflict expression. The consequences posed by their emergence for the development of forms of union action are also unclear. As this dissertation will show, especially in the Ukrainian context, these conclusions would hardly prove true in many cases of enterprise-based conflicts driven by independent trade unions. This would also be the case within the overall institutional framework of IR once a more differentiated analysis of chances, choices and tensions within reformed and independent trade unions is provided. Notably, the constraints mentioned above (resources, organisational difficulties and opposition of employers) had an exclusive

¹⁵ In the literature all unions that operate outside former official federations tend to be included as ‘independent’ unions without sufficient attention being paid to their origin (e.g. see the analysis of ‘new’ unions published in Clarke, Fairbrother and Borisov (1995).

impact on independent trade unions. These constraints differ from those (legitimacy, legacies and the dependence on employers and the state) identified in the literature, found mainly in cases of former socialist trade unions. By making a comparison with 'traditional approaches' of reformed trade unions, the inclusion of both trade unions into the analysis should show that the underlying reasons for their weaknesses differ structurally. Consequently, the mechanisms leading to path-enforcing or path-breaking endeavours are different as well. Such a differentiated analysis would show how newly established, independent trade unions can spur the development of new forms of union action in the face of the path-dependent development of the majority of successor trade unions.

Finally, worker representation by trade unions must be understood as a process and not only an outcome. For example, Avdagic (2003, 2005) developed an understanding of union effectiveness in achieving concessions from the state during the peak-level national tripartite negotiations. Avdagic's understanding of union efficacy is based on the historical and ongoing strategic state-union interactions and learning. As she argues, the processes of learning which are nascent to the interactions of trade unions result in adjustments to union strategy. A process-oriented perspective on union efficacy is also developed by Frege (2002). She argues that processes are especially relevant for the analysis of workplace representation when the opportunities to influence management emerge not only in moments of union-management bargaining but also through participation rights. Hence, it is not enough to look at the outcome of union-management relations; we must focus on and understand how the *process* of union operation influences union capacity to represent their members in the long run. In adopting such an approach, the path-dependent reproduction of worker representation by weak trade unions cannot be considered 'state of the art'. Rather, it is the process of union development that can ultimately indicate certain points of departure or return.

1.4.1. Main Argument of the Dissertation

The present dissertation offers a process-oriented perspective of union development, in which unions are understood to be strategic actors capable of making decisions and enforcing their interests within the existing institutional contexts, simultaneously being able to change those institutional contexts by adjusting or even departing from a certain path. It is argued that post-socialist trade unions find themselves in formative processes. It is the complexity of these dynamic processes of union formation that explains weak worker representation in the FSU. In this formulation, the perspective provided in this

dissertation shifts analysis of worker representation to an enterprise-based process of the co-development of previously existing and newly established trade unions.

In order to develop the argument on union co-existence further, first some basic assumptions need to be highlighted. Initially, contrary to the argument that independent trade unions reproduce the same structures, practices and compromises, which characterise successor trade unions (Ashwin and Clarke 2003, Clarke 2005), I assume that the choices of these unions (e.g. in terms of collective identity and opposition in relation to the state, employers and disposition to conflicts) underpin the new forms of union actions that are more conflict-oriented than those of the reformed trade unions. Secondly, from the perspective of union co-existence (and in line with the previous analysis of reformed trade unions), I recognise there is a stronger presence of reformed trade unions in enterprise relations and IR than independent trade unions. It is important to note that the strong presence of reformed trade unions does not automatically mean a guarantee of organisational strength or influential position. My argument is also in line with that which dominates the literature, that of union weakness. By comparing the organisational presence of both types of trade unions, it should be clear, firstly, that former socialist trade unions used to have the monopoly on worker representation in every IR arena and, secondly, that the majority of workers have remained members of reformed trade unions in spite of continually complaining that they were not appropriately represented by those trade unions. This distribution of union presence and membership across both types of trade unions would later have an impact on the subsequent development of independent trade unions. Finally, I assume that enterprise-based welfare and non-wage services play a strong role in shaping unions' and workers' choices. The enterprise-based dependency of workers to have access to welfare and non-wage services was highlighted as the means to ensure high levels of membership in reformed trade unions, simultaneously explaining the lack of collective actions (e.g. Crowley 2000). The provision of these services by reformed trade unions may possibly explain the decision of many workers to trade their dissatisfaction with successor trade unions in terms of conflict for access to material, non-wage benefits.

In order to develop the argument about union formation processes further, I differentiate between two levels of these same processes. At the first level, I recognise that the transformation of the institutional framework of IR has created the structure of an autonomous system, in which potentially conflicting interests between workers and managers represent the basis for the (re)organisation of collective actors and their

interests. Within the institutional framework, the unions' capability and capacity to protect workers is implicitly assumed. Nevertheless, union formation processes presuppose the development of union capability and capacity to independently articulate conflicting interests. This understanding of formation processes includes the processes that lead to the formation of conflict-based representation attributes within trade unions. At the second level, the simultaneous formation of different union representation structures at the same workplace should be discussed.

Emerging Union Paths and Changing Interest Constellations

At this level of investigation, I look at the implications of the formative moment during the late 1980s. Given the historical background of post-socialist trade unions, the development of capability and capacity necessarily presuppose serious and deeply embedded union choices in terms of identity and agenda, structures and resources, union-management relationships and positions taken in relation to conflict. However, prior to the institutional rearrangement of IR, successor trade unions are limited in their capacity to make all those choices, given the party's decades'-long control over those trade unions. Instead, conflict-based union ability and capacities to represent and protect workers using strategies and organisational practices that are based on potentially conflicting interests emerge outside of the existing trade unions in the form of workers' spontaneous strikes and independent trade unions.

The key point in this process, during the 'moment of critical juncture', is the departure from the historical path of the monolithic and conflict-free union representation through the establishment of 'alternative' trade unions. In structural terms this was when the institutional parameters of IR were changed, following the establishment of worker strike committees, forerunners to the first independent trade unions. In terms of agency, meanwhile, this was when interest-based conflicts through new unions took place outside of the successor union organisations. The central question guiding this part of investigation is the changing constellation of interests and interest-based conflicts emerging within the arenas of IR during these initial moments of conflict articulations, when independent trade unions formed outside of the existing union organisations.

In a nutshell, alternative practices of conflict articulation outside socialist trade unions (as expressed in workers' spontaneous self-organisation) have developed at a time of an already shaken status quo and continuing questioning of the legitimacy of existing unions. Consequently, the formation of interest constellation and interest-based

conflicts also comes with the potential for conflict between independent and socialist trade unions as the identities, goals and forms of action defined and adopted by independent trade unions *oppose* those defined by reformed trade unions. For during this moment of critical juncture, the structural and historical differences between these trade unions provoke the development along either path enforcement (reformed trade unions) or path departure (independent trade unions).

Hypothesis I: the formation of trade union representation in interest-based conflicts was constrained by the latent, and immanent, conflict hidden in the structural and historical differences of two alternative paths of union development.

Subsequent Development of Union Paths and Organisational Pre-Conditions for Conflict Institutionalisation

At the next level of union formative processes, sequences of interactions between reformed and independent trade unions should be analysed given that actors act, learn and adjust their strategies. The successes of conflict-based worker representation do not automatically accompany the establishment of a strong independent organisation during the critical juncture. Stabilisation and further development of independent union organisations is critical to be able to stay on the new, conflict-based path of worker representation.

While demands and mobilisation of independent trade unions continue to threaten the legitimacy of reformed trade unions, they also now threaten the organisational basis of reformed trade unions. Not only have independent trade unions started to organise workers across different professions and sectors, thus prompting members' withdrawal from reformed trade unions, independent trade unions have also started to demand equal resources and participation rights to those the existing trade unions have enjoyed. At the same time, despite the legitimacy-related problems, the legacy of reformed trade unions has allowed them to preserve their heavier presence in IR in comparison with independent unions. Given this context, discussion centres on the question: what opportunities and conditions exist for independent trade unions to have their path extended across a greater number of sectors and regions? Could independent trade unions easily enter the IR arenas, especially in the face of the strong organisational presence of reformed trade unions?

It is highly likely that the latent conflict inherent in the co-existence of both trade unions develop into inter-organisational conflicts and rivalry. In this subsequent phase of trade union formation, the co-existence of reformed and independent trade unions is likely to

result in clearly articulated, explicit opposition and conflicts between these trade unions. Contrary to the potentially positive results of union competition, union rivalry has constrained the initial and potential opportunities of independent trade unions to establish new forms of union actions on a broader geographical scale. With inter-union conflicts becoming more explicit and embedding themselves more deeply, ‘winning inter-union battles’ would most likely provide the evidence for staying on a new path. While ‘losing inter-union battles’ would most likely mean the return to path-dependent development, that is providing security for the existing union organisations, rich resources and close relationships with the state and employers.

Hypothesis II. The strong organisational presence of reformed trade unions and inter-union conflicts have constrained the capacity of independent trade unions to construct, develop and strengthen new forms of union action within different institutional arenas of IR.

Consolidation of Union Paths and Forms of Worker Representation

Finally, I turn to the question of whether independent trade unions exert any pressure over the course of reforms and formation of styles of action within reformed trade unions. I assume that positive effects would arise from inter-union competition. Where more than one union exists and union competition emerges, this effect is very likely to provoke improvements in the services of challenged organisations. Consequently, changes of conflict-articulation practices of reformed trade unions can be expected. Hence, inter-union competition provides an incentive for reformed unions to reconsider their approaches to conflicts. Therefore, at a more general level, it is possible to hypothesise that the establishment of more conflict-oriented independent trade unions thus provides an impetus for the processes and courses of change within reformed trade unions.

Nevertheless, this does not take into account the material rewards for members given by the social-welfare activities of these unions. Especially in times of economic deprivation, tangible, material incentives provide more plausible basic explanations for workers to choose between one or another trade union. Therefore, as I further assume, reformed trade unions would be unlikely to give up their core activities – social and welfare functions; the latter has proved to be a strong incentive for workers to stay members of reformed trade unions, in order to preserve their access to these material, though non-wage, benefits. Thus, reformed trade unions would likely look for ways to integrate both into the existing path, thereby adjusting this same path respectively.

Hypothesis III. Under the impact of independent trade unions, reformed trade unions integrate new practices of conflict articulation into their existing forms of actions and activities, while incrementally adjusting the path of their development in order to preserve the core of their former services and activities.

These three hypotheses form the framework for a discussion of post-socialist worker representation. A comparison of the activities of previously existing and newly established trade unions helps integrate the issue of development of union pluralism as a part of the discussion of the development of conflict-based worker representation. By identifying the implications of the concurrent development of both reformed and newly established trade unions during certain sequences, the concept of union formative processes helps to identify the mechanisms leading to the enforcement, adjustment of, and breaks with previous paths of worker representation.

Chapter 2. Research Design and Methodology

This chapter develops the research design of the dissertation. Understanding and producing an analysis of union formative processes, as is the research objective of the present dissertation, is achieved through the use of processual analysis and qualitative research methods. Firstly, the advantages of a qualitative approach are revealed through engagement with current methodological debates in the social sciences literature. Next, the principles of processual research, as introduced by Pettigrew (1997), are outlined. An exploratory-explanatory case study design is then introduced. This is followed by a description of the criteria upon which the choice of case studies was based. Research methods used to collect data are discussed after which the methods of data analysis are presented. The chapter then concludes with a reflection on the limitations of the methodological approach.

2.1. Qualitative Research

Exploration and analysis of IR processes and problems are particularly well suited to a range of qualitative techniques and case study research designs (Kitay and Callus 1998, Whipp 1998). This research methodology was initially viewed as a less desirable form of inquiry; case studies have been criticised for their lack of rigorousness, their systematic handling of data and scientific generalisations (ibid). However, as a more formalised use of case study designs, which has been developed by several authors (e.g. Eisenhardt and Graebner 2007, George and Bennett 2005, Yin 1994, 2009), has showed, well-designed case studies can systematically report all evidence and generalisation from their evidence is possible.

The main critiques of case study methodology are rooted in a division between ‘the positivist-theory testing-quantitative’ and ‘constructivist-theory generating-qualitative’ research (King, Keohane and Verba 1994, Whipp 1998). In the mid-1980s, Anthony Giddens responded to the division between qualitative and quantitative research by introducing the concept of “the duality of structure” (Giddens 1984, 1993). Giddens argued that, “[o]nce the point of this [the duality of structure] is understood, the idea that there is either a clear-cut division or a necessary opposition between qualitative and quantitative methods disappears” (Giddens 1984: 333).

Following Giddens’ theoretical interventions, this more formalised use of case study methodology has been further developed through related methodological approaches

including the ‘grounded theory’ and the approach of ‘theory building from case studies’ (Eisenhardt 1989, Eisenhardt and Graebner 2007, George and Bennett 2005, Kitay and Callus 1998). According to these approaches, the emphasis of case studies “[...] on developing constructs, measures, and testable theoretical propositions make inductive case study research consistent with the emphasis on testable theory within mainstream deductive research” (Eisenhardt and Graebner 2007: 25). King, Keohane and Verba (1994: 7) stress that in so far as both qualitative and quantitative research methods follow the general rules of scientific inference (“reliability, validity, certainty, and honesty of our conclusions”), the methodological and substantive differences between qualitative and quantitative research are only ‘stylistic’ and thus insignificant. George and Bennett (2005) only partly agree with the argument of King, Keohane and Verba. They argue that case studies are only similar to statistical methods and formal modelling in epistemological terms:

“Epistemologically, all three approaches attempt to develop logically consistent models or theories, they derive observable implications from these theories, they test these implications against empirical observations and measurements, and they use the results of these tests to make inferences on how best to modify the theories tested” (ibid: 6).

George and Bennett further argue (ibid) that case studies, statistical methods and formal modelling do differ from each other methodologically. For example, differences exist in terms of the kinds of reasoning regarding case selection, the operationalisation of variables and the use of inductive and deductive approaches to draw conclusions.

The structural advantages of a qualitative research design are particularly beneficial for an examination of the process of development of worker representation by trade unions. Firstly, the use of case studies “[...] focuses on understanding the dynamics present within single settings” (Eisenhardt 1989: 534) and opens a possibility to study phenomenon in a real-life context (Kitay and Callus 1998, Yin 2009: 18). Secondly, qualitative research designs are better suited to understanding “the dynamics of the relationships” (Whitfield and Strauss 1998: 15). These dynamics include both ‘objective’ (the elements of the structure and context) and ‘subjective’ (values and perceptions) elements of social and economic life (Kitay and Callus 1998). In particular, subjective issues such as actors’ ideas and values are indispensable for in-depth understanding of post-socialist union formative processes. Thirdly, utilisation of case study methodology makes it possible to simultaneously integrate different types of data (including both qualitative and quantitative data), different methods, and both inductive and deductive ways of drawing conclusions (e.g. Whitfield and Strauss 1998, Yin 2009). The use of multiple sources of evidence (triangulation in methodological terms) aims to increase

case study validity (Mayring 2000). Methodological triangulation is of particular importance in the FSU due to the unreliable and incomplete data which researchers are faced with. Finally, case studies provide an opportunity to collect rich empirical data. By doing so, the development of theories on the basis of case studies and empirical data “[...] is likely to produce theory that is accurate, interesting, and testable. Thus it is a natural complement to mainstream deductive research” (Eisenhardt and Graebner 2007: 25-26).

2.1.1. The Need for Qualitative Research in the FSU

Beyond all the comparative advantages of the case study research strategy, the lack of an unbiased research tradition in Soviet sociology makes a case study strategy even more suitable for research in the FSU. Existing Soviet empirical sociology lacked unbiased and well-formed traditions of empirical research.¹⁶ The empirical research tradition in post-socialist social sciences goes back to the early 1970s. Some significant works of Western sociology that had been written in the 1950s and 1960s were translated and compiled into a research guide by the famous Russian sociologist Yadov. Almost immediately after publication and the subsequent proliferation of this methodological thought, it was abruptly interrupted in the 1970s. The major emerging sociological institute at the Soviet Academy of Sciences was then put under the control of the Communist Party (Belanovskiy 2001). The research guide published by Yadov was quickly adapted to the doctrine of ‘scientific communism’, establishing clearly biased positivist traditions as the basis for methodological research approaches in the Soviet Union. Central to this biased positivist tradition was the core premise of scientific communism: that in the working class’ state, the dictatorship of the proletariat replaces and makes impossible any interest antagonisms.

¹⁶ Soviet and post-Soviet social sciences were deeply biased by the ideology of socialism and ‘scientific communism’. Scientific communism is a component of Marxism-Leninism, which is concerned with the disclosure of the general laws, methods, and forms of the class struggle of the proletariat. Formulated by Marx, Engels and Lenin, the most relevant category of scientific communism for IR is the dictatorship of the proletariat and thus the absence of any conflict of interests among the working class, the Party-State and enterprise administration. More specifically, general laws of scientific communism include 1) the conscious character of social transformations and the scientific character of the management of social processes under the leadership of the working class and a Marxist-Leninist party; 2) the general laws “[...] of the harmonious, balanced, and planned development of social processes and of all aspects of social life, which replaces [...] the antagonisms [...] and class inequality”; 3) the emergence amongst people free from exploitation of genuine collective practices; 4) the law of the emergence of social homogeneity with the comprehensive development of the individual and the increased independence, initiative, and activity of the masses; and 5) the law that social evolution takes place without political revolution. Thus, the laws and categories of scientific communism have a methodological application in particular sciences that study socialism and communism. Scientific communism has been taught as a scholarly discipline in the higher educational institutions of the USSR since 1963 (Bol’shaya sovetskaya entsyclopediya 1969-1978).

This methodological basis of sociology has hardly been revisited since the collapse of socialism. Whereas neither qualitative methods nor case study research have had firm traditions in post-Soviet research practice (Belanovskiy 2001, Kozina 1997), qualitative methods, where recently applied, have been limited to certain commercial research in marketing, advertisement and policy consultancy (ibid). Although it has become possible to conduct unbiased fieldwork in the region of the FSU, quantitative data has continued to remain incomplete and unreliable. Hence, the proliferation of case studies and field research as practiced in Western sociology reflects a need to fill the gaps in both qualitative and quantitative data and knowledge relating to post-socialist IR.

2.1.2. The Problem of Applying a Qualitative Research Strategy in Post-Socialist Contexts

While qualitative research has been particularly valuable to post-Soviet social sciences, many authors have argued (e.g. Avdagic 2003, Clarke 2005, Kubicek 2004, Kurtan 1996, Thirkell, Scase and Vickerstaff 1995) that the theoretical assumptions accumulated in the Western social sciences and IR research are not appropriate given the specific conditions of the post-socialist countries. The recognition of the need for country-specific practices, which have not been researched before, implies that study designs have to be developed on the basis of theoretical assumptions different from those of the Western social sciences. The nature of these assumptions, as Crowley and Ost (2001: 10) have argued, “[...] will only become clear in the course of concrete empirical investigations”. This need for qualitative empirical research within the context of an absence of a theoretical tradition poses significant challenges when developing appropriate research strategies in the post-Soviet states.

As a way to address this problem, Ost (2005: 4) argues that, “[s]ocial scientists should enter a rapidly changing transformative political moment not with a fixed set of research questions but ready to learn whatever new questions the new situations compels one to ask”. Flexibility in terms of research questions, designs and strategies, however, does not imply a need for heuristic methodological designs, as it might appear on first sight. Rather, a researcher’s flexibility refers to the possibility to shift or change the research questions as the research process is unfolding, while preserving the same initial *focus* of the research (Berg 2009). As Eisenhardt (1989: 539) notes, “[...] this flexibility is controlled opportunism in which researchers take advantage of the uniqueness of a specific case and the emergence of new themes to improve resultant theory”.

Integrating flexibility into the research design in the sense advocated by Berg and Eisenhardt, the approach adopted in the present dissertation is built on the principles of processual analysis. Processual analysis itself is built on Giddens' understanding of the duality of structure. Distinctly though, processual analysis emphasises the importance of time, history and mechanisms shaping processes and explaining outcomes under analysis. Thus, processual analysis provides a methodological approach that enables one to trace some processes in the sense of a historical institutionalist analysis.

2.2. Processual Analysis

According to Pettigrew (1997: 339), processual analysis is the analysis of a process in which "events and chronologies" are the "crucial building blocks" of the analysis. However, simply describing events and chronologies is not sufficient to achieve the analytical purpose of processual case studies. "The aim in a processual analysis is not to produce a case history but a case study. The case study goes beyond the case history in attempting a range of analytical purpose" (ibid). The analytical purpose of the analysis means that within the framework of the processual analysis the processes that led to the emergence of the investigated phenomena should not only be identified and explored in connection to its context and outcome, but their effects should also be generalisable beyond the cases. Hence, a case study methodology being used for a processual analysis should 1) identify and possibly compare the patterns in the process, including the character, incidence, and shape of patterns; 2) identify underlying mechanisms shaping the process; and 3) combine the inductive and deductive logics of research (ibid).

Yet how exactly can a researcher trace complicated processes of union formation in order to explain the present state of worker representation? This question becomes a highly relevant question when the research focuses on a field as dynamic and uncertain as that of post-socialist transformation. In methodological terms, Geddes (2003) recommends a division of big questions into a series of smaller mechanisms causing the investigated phenomenon.

There is no agreement in the literature on what exactly a 'mechanism' is. Nor is there any unanimous definition of the term 'mechanism'. Pettigrew speaks about 'the underlying mechanisms which drive the process' more generally:

"Such mechanisms may be directly observable, indeed part of the conscious intentions of key actors in this process. They may also be a feature of the immediate or more distant context and not part of the sensibility of local actors. The mechanisms may also be elements in the interactive field occasioned by links between levels of process and context around the primary process stream under analysis" (Pettigrew 1997: 339).

As this citation shows, in processual analysis mechanisms are understood in terms of actors' intentions and the elements of context as well as interactive fields, i.e. the interaction between actors, a process and its context. As far as the research objective of this dissertation is concerned, a processual research approach allows for an integration of structural (objective) mechanisms shaping worker representation, such as the institutional infrastructure for example. Simultaneously, when applied to this case, processual analysis requires engagement with the strategic intentions of unions and their (inter)actions, and thus also helps to integrate subjective mechanisms of union formative processes that shape the structure of worker representation.

In developing this broad understanding of mechanisms, this processual analysis helps to overcome the dualism between the structure and actors' agency as such an understanding of mechanisms integrates the premises of the duality of structure as suggested by Giddens (1989). Notably, processual analysis envisages that actors' actions or agency alone cannot explain the processes at hand. Beyond actors' agency, context is a necessary part of the investigation in processual analysis. Pettigrew has noted that the context itself cannot be discussed without human agency given that the context is, essentially, "a nested arrangement of structures and processes where the subjective interpretations of actors perceiving, learning, and remembering help shape process" (ibid: 341). This understanding of a context is explicitly built on the assumptions of 'the duality of structure'; perceiving context in terms of the surrounding structure but also, crucially, in terms of actors, their ideas and behaviour as well as their interaction with the structure itself and ultimately other actors. This understanding of mechanisms and contexts allows both the reorganisation and co-existence of different trade unions to be integrated into the processual analysis as essential mechanisms behind the development of worker representation.

In order to navigate the complexity of the context, Pettigrew recommends differentiating between an outer and inner context. Outer context refers in Pettigrew's understanding to the economic, social, political, etc. environments. While inner context includes the structural, cultural and political environments within an organisation. Using the example of firms, the organisational changes of which Pettigrew has himself investigated, this implies that the explanation of actors' performance should be linked to

"[...] higher levels of analysis (sector changes and alterations in national and international political and economic context), and lower levels of analysis (the drivers and inhibitors of change characteristic of different firms' culture, history, and political structures). There is also the recognition that there are processes at different levels of analysis [...] and also multiple processes at the same levels of analysis [...] A source of change is the asymmetries between levels of context..." (Pettigrew 1997: 340).

Indeed, the context of post-socialist IR changes has constantly been characterised by such ‘asymmetries’ between levels of context because the installation of the institutional framework from the top preceded (re)organisation of trade unions. In light of this ‘asymmetry’ between the pace of institutional changes and actors’ formation, the processual perspective offers a well-suited strategy to examine how conflict-based worker representation has formed within the new institutional context.

2.3. Research Strategy

There is no agreement on whether research strategy should begin with theory (as Yin 2009, for example, stresses) or whether theory should be developed following empirical research, as expressed by Georg and Benett (2005) for example. In this context Berg (2009) suggests a model, which allows this disagreement to be resolved by combining ‘theory-before-research’ and ‘research-before-theory’ approaches. In Berg’s view, the combination of both approaches to the research design is possible, if one conceives the research strategy not as linear but as ‘spiralling’:

“In the proposed approach, you begin with an idea, gather theoretical information, reconsider and refine your idea, begin to examine possible designs, reexamine theoretical assumptions, and refine these theoretical assumptions and perhaps even your original or refined idea. [...] [Thus] you are spiraling forwards, never actually leaving any stage behind completely” (ibid: 26).

This ‘spiralling’ research methodology is particularly appropriate for researching post-socialist worker representation due to the lack of accumulated qualitative empirical research practices and because much of what is in existence has been informed by the ideology of scientific communism. Therefore, the pure application of comparable principles to research in the FSU can have different consequences when they are applied to capitalist states (Schienstock 1992: 121). Some difficulties are created when attempting to establish the basis of the “theory-before-research” through these purely applied theoretical propositions. However, this is not to say that the theory developed in Western sociology is not useful for the analysis of post-socialist trade unions and worker representation. Rather, it is enough to note that direct application is limited in its capacities.

One solution is found in a revision of the research strategy of ‘spiralling’ (Berg 2009). In institutional terms the legal framework for IR (embracing the principles for sound and coherent IR as developed by the ILO) has assigned trade unions representative and protective roles similar to those in the capitalist societies of Western Europe. Through ‘spiralling’ as suggested by Berg, it is then possible to discuss these theoretical propositions against the specific background of the post-socialist context. In this way

Berg's approach also helps to overcome the problem associated with the lack of a good methodological tradition. Consequently, the research design of the present dissertation starts from a discussion of union-related concepts in the Western European social sciences. The conceptual framework that follows in the next chapter adjusts these concepts based on empirical findings related to the post-socialist trade unions, which are recorded in the literature. The case study-based research strategy integrates the observations outlined above into a specific research strategy.

2.3.1. Case study

Yin (2009) differentiates between descriptive, exploratory, and explanatory case studies. Descriptive case studies aim to describe a phenomena and the real-life context in which the case occurred. Exploratory case studies aim to illustrate or enlighten certain topics and situations and generate hypotheses. Explanatory designs explain causal links found in real-life interventions.

In order to fulfil the analytical purpose of the processual case study research, the process-oriented analysis of union development pre-supposes elements of both exploration and explanation (Pettigrew 1997). The focus on union formative processes presupposes not only a depiction of the formation processes themselves, but also the identification of 'mechanisms' of inter-union interactions which have contributed to the present state of worker representation. An exploratory-explanatory case study approach aims to identify and explain the patterns of formation of post-Soviet trade unions within their operating context, including within the new institutional infrastructure, and in terms of unions' intentions and conduct.

In order to link different elements such as the context, patterns of the union development and learning, as the mechanisms which explain the development of worker representation (outcome), to the analysis at a less abstract level, the research strategy adopted here operationalises processual analysis by means of the methodological model developed by Stones (2005).¹⁷ According to Stones (2005), the analysis of a process includes four components:

1) External structures (or 'the outer context' in Pettigrew's understanding): these are acknowledged and unacknowledged conditions of action, which can either constrain or

¹⁷ Stones developed this model in order to strengthen the empirical applicability of Giddens' structuration theory. Processual analysis as practiced by Pettigrew is developed from the same assumptions of structuration theory. Thus, there is no difficulty in combining the two into the same research strategy.

enable actions of agents. External structures include, in this specific case, the institutional infrastructure of IR and sector and enterprise background.

2) Internal structures: this component can be compared to ‘the internal context’ in Pettigrew’s processual analysis and includes;

2a) ‘conjunctually-specific knowledge’ of external structures that have formed over time and relate to the role or position occupied by agents. This includes “[...] knowledge of interpretative schemes, power capacities, and normative expectations and principles of the agents within context” (Stones 2005: 91). The examples of such ‘conjunctually-specific knowledge’ in the present approach include, for instance, the historically formed positions of trade unions within the arenas of IR as well as in relation to other actors and each other;

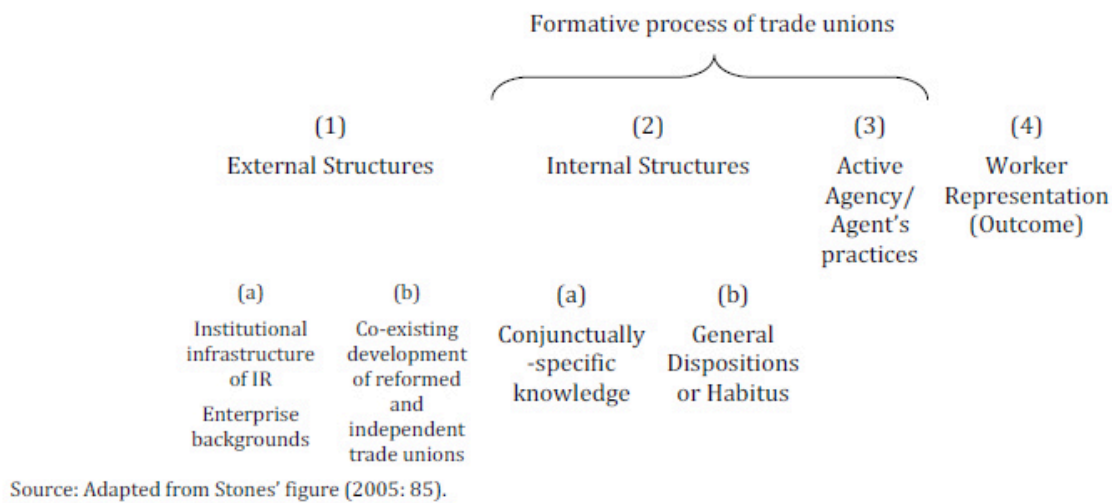
2b) general dispositions or habitus (this is something actors draw upon without thinking, including, for example, ‘transposable skills and dispositions’) (ibid: 88). In the FSU, such general ‘skills’ and ‘dispositions’ underpinning union-based worker representation were formed during socialism as well as new dispositions that started to form while socialism was in crisis. Faced with the differences which exist between reformed and independent trade unions, the application of different disposition or habitus by the respective trade unions results in the emergence of the path-enforcing or path-breaking worker representation outcomes;

3) Active agency and agents’ practices; and finally,

4) Outcomes that are the result of active agency, which can lead to change or preservation of structures and have intended or unintended consequences (ibid: 85). In the present research approach these outcomes include the patterns of worker representation as developed by a given trade union or resulting from the interactions of different trade unions at the same workplace.

This model thus helps to explain the current state of worker representation (outcome) as based on union formative processes (mechanisms) and active agency of unions (process) within the new institutional structure and the present constellation of actors (outer context). The diagram below helps to visualise this model:

Figure 1. The Structure of Worker Representation



2.3.2. The Level of Analysis

In Ukraine trade unions and their associations operate at all levels: national, branch, occupational, regional, enterprise and shop-level. Several reasons exist to focus this investigation on the enterprise-level activities of unions. Firstly, the Soviet enterprise existed as “a social organism with [its] own rationality” (Clarke 1996b). Under socialism, the provision of recreation and welfare services was integrated into the enterprise (social function). The social role of an enterprise, in turn, framed the functions of enterprise-based trade unions in terms of the distribution of enterprise-provided social services. Additionally, the enterprise-based community of workers (‘labour collective’) served as the means to integrate workers into the system of socialist governance (integrative function).

Secondly, in view of reforms aimed at establishing a capitalist economy (particularly privatisation) the enterprise level has continued to be of central importance for changing union roles. Enterprise transformation and restructuring have provided a dynamic operating context for union formative processes after the socialist system collapsed. For instance, the elimination of recreation facilities in the course of enterprise restructuring has challenged the historic union role of fulfilling social and welfare functions. Without having developed protective functions that are based on foundations other than the social functions of an enterprise, the disintegration of the recreation facilities threatened trade unions with a loss of relevance to their members.

Thirdly, national and sectoral levels of union activities bring limited insights into the micro-foundations of and motivations for trade union practices and patterns of behaviour. Higher levels of union activities have been diverging from the demand for certain union activities at the enterprise level (e.g. Connor 1994). Also, the situation at higher levels of the unions has not reflected the inter-union dynamics that characterise lower levels of union activities (e.g. local union reform and union pluralisation). Analysis of the sectoral and national levels of IR has little explanatory power in terms of the co-existence of reformed and independent trade unions, as the latter have enjoyed a stronger presence at the enterprise-based level. As the FSU's newly established trade unions have emerged and structured themselves starting from the enterprise level then building upwards, the enterprise-based level is the most illustrative of the new constellation of trade unions and of inter-union interactions and pluralism.

Finally, the representation of workers during conflicts and union approaches to conflict situations in particular exemplifies the (non)emergence of certain union characteristics that are less evident in non-conflict situations, but are nonetheless indicative of the process and relevance of union changes. The enterprise level allows concrete conflict situations to be observed and patterns of union behaviour to be examined. In view of all of these considerations, the enterprise-level was chosen as the most appropriate level of analysis.

2.3.3. The Choice of Cases: Ten Enterprise-Based Trade Unions

Eisenhardt and Graebner (2007) stress 'theoretical sampling' as a means to choose cases in order to increase the analytical value of case studies. 'Theoretical sampling' means that "[...] cases are selected because they are particularly suitable for illuminating and extending relationships and logic among constructs" (ibid: 27). If selected by means of theoretical sampling, multiple cases are able to yield more robust, generalisable and testable theory.

Yin (2009) puts forward 'the logic of replication' as an alternative way to choose cases. Yin's 'logic of replication' means that each case should be chosen for the purpose of either predicting similar results ('literal replication') or predicting contrasting results for anticipated reasons ('theoretical replication'). In particular, 'polar types' enable an investigator to more easily observe contrasting patterns in the data by using examples of extremes: very high and very low performing cases (ibid). Yin's position echoes the method of agreement and method of difference suggested by Mill and the main principles of the most similar and most different systems designs suggested by Przeworsky and Teune (1982 in Leuffen 2007). In the method of difference (linked to

most similar systems design) cases are selected which differ in their key independent variable, yet show similarities in other characteristics. This allows a researcher to explain the patterns of behaviour and relationships between single variables. In the method of agreement (linked to most different systems design) the cases agree on the dependent variable as well as on the key independent variable, while all other variables differ between the selected cases.

In the present research design the cases were chosen using a combination of ‘literal’ and ‘theoretical replication’, to use Yin’s terminology. This means that cases predicting similar results and cases predicting contrasting results (for anticipated reasons) have to be included. All cases of unions predict a similar result; namely worker representation in general or in a certain enterprise-based situation. In this sense all trade unions can be addressed as ‘cases predicting a similar result’. At the same time, union pluralisation and the differences in the historical and political development of each trade union have informed union formative processes in different ways from case to case. It is possible to address reformed and newly independent unions as ‘cases predicting a different result but for anticipated reasons’. In order to test the proposition that the concurrent development of previously existing and independent trade unions has affected the forms and terms of worker representation, cases were identified in which union development could be explored using the contrasting examples of reformed and newly established unions.

Furthermore, enterprises having different ownership forms and operating in different sectors are also considered. This is important in order to conduct research at the enterprise-based level in the context of the diversification of ownership forms in the FSU. Using this framework for the research strategy, trade unions operating at two privatised, two state-owned and two foreign owned enterprises were studied. Unfortunately, my cases studies do not include any newly established private enterprises. Identifying union activities at these enterprises proved to be a considerably difficult task. Some private enterprises in mining for example, where I could identify and start to research trade unions, either dissolved or disappeared into the informal economy. Moreover, newly established enterprises have emerged most commonly as micro and small enterprises. Enterprises of this size offer an extremely difficult environment for organising trade unions and, in fact, their size often renders them unappealing for trade unions themselves (Webster, Bischoff, Xhafa et al. 2008).

In line with three hypothesis (in chapter 1), the formative processes of unions were divided into the three phases. In the first phase of union development (organisational), unions and their leadership must determine which reforms they need by making choices on different dimensions including identity, agenda, structure, resources, relationships with employers and attitudes to conflicts. This is followed by an operational phase, which clarifies the conduct of union activities. In this phase, unions collect experiences and knowledge and then construct practices of operation that help solidify their chosen formation. Finally, there is a consolidation phase. It is assumed that union consolidation phase is reached when and if an understanding of opposing interests is firmly established within a union. In order to explore this non-linear nature of union formative processes, two cases of each phase of formation have been included. Table 2 (below) provides an overview of the selected enterprises.

Sector specifics were not involved in the process of enterprise selection. In choosing not to make a selection based on sector specifics I was guided by several considerations. First, the high social cost of transformation and repeated economic crises has affected all sectors of the economy and all workers. Second, union formative processes have unfolded in Ukraine regardless of sector divisions. It should be noted at this point, however, that sector specifics may play a role in union representation. For example, in the FSU union militancy was a characteristic of the mining sector, but it has not developed to the same extent in any other sector. As Crowley (2000) has pointed out, dangerous conditions in the mining sector could have explained the high degree of militancy among coal miners. Furthermore, in fact, newly established union movements in Russia, Ukraine, and Belarus all first emerged in the mining sector. However, as Crowley (ibid) further demonstrates, only a lower level of militancy without strikes emerged in the metallurgical sector, where workplaces present similarly dangerous conditions. Similarly, Boyeva, Dolgopyatova and Shironin (1993) find that sector specifics hardly played any significant role in the enterprises' position on the market or on managers' decisions. The case studies below will show that the conflicts workers faced at the workplace level served as a stronger impetus for union development than sector specifics.

Table 1. The choice of the enterprises for case studies

Formative stages			Characteristic Enterprise	Branch	SOE	PRIV	TNC	Unionisation	
F	O	C						RUC	ITU
X			L'viv Bus Plant	Machine-building		X		X	X
X			Lafarge Mykolaivcement	Building materials			X	X	
	X		ArcelorMittal	Metallurgy			X	X	
	X		Kyiv metro	Transportation	X			X	X
		X	Sukha Balka	Iron-ore Mining		X	X	X	X
		X	Zaporizhya Clinical Hospital	Public Services (Medical)	X			X	X

F- formation of the union; O -union operation; C - consolidation of union organisation and activities; SOE - state owned enterprise; PRIV - private enterprise emerging after privatisation; TNC - Transnational Corporation; RUC- reformed union committee; ITU - independent trade union.

2.4. The Methods of Data Collection

Data was collected in three stages between mid 2007 and early 2010. In response to critiques of qualitative research, triangulation, in other words the use of multiple methods, serves as a means, “to raise sociologists above the personalistic biases that stem from single methodologies [...] [and] overcome the deficiencies that flow from one investigator and/or method” (Denzin 2009: 300). Several sources of data were considered in the process of research in order to increase the reliability and validity of the research.

During the first phase of data collection, different media were analysed in order to identify union developments and conflict situations at enterprises where involvement of trade unions was highlighted. Simultaneously, pilot expert interviews were conducted with representatives of the Confederation of Free Trade Unions of Ukraine (KVPU) and the Federation of Trade Unions of Ukraine (FPU). Regional committee members and other representatives were also interviewed in order to identify further interesting cases. It should be noted at this point that trade unions in Ukraine enjoy very little presence in the media. Hence, pilot interviews helped to identify some valuable constellations that were used as the basis for case studies. The additional purpose of expert interviews was to test the interview schedule and the reaction of the informants to the topics raised and questions asked. Following these expert interviews, the questionnaire was optimised.

The second phase of the research followed evaluation of the results of preliminary research. During this second phase, contact was made with informants in the unions selected for case studies. An extensive collection of background data about these enterprises and trade unions complemented the activities undertaken in this phase of research. George and Bennett (2005) call this stage ‘soaking and poking’, as it leads to the construction of a chronological narrative that helps the researcher understand the basics of the case. Analysis of the internal union newspapers and media, a preliminary chronology of union development as well as an outline of conflict situations were formulated. The interview questionnaires and conceptual framework were both refined and optimised. Also, additional expert interviews were completed in this phase of the research.

During the third phase of data collection ten visits to Ukraine were conducted. Each visit was between one and three weeks long. In the course of the visits the informants were

interviewed, and it was possible to obtain additional documents for data collection and analysis. During all three phases of data collection, documentary data was continuously collected and the background information on each case was updated accordingly. After the completion of field visits and interviews I conducted follow-up on the telephone or by email. This allowed me to follow union developments over time. Where possible, informants were interviewed several times. The data was collected mainly by means of expert semi-structured interviews and complemented by documentary analysis and participant observation. Each of these methods of data collection is detailed below.

2.4.1. Interviews

In fact, interviews are ‘essential’ sources of case study information because most case studies are about human affairs or behavioural events (Yin 2009: 104). Interviews serve as “[...] the primary means of accessing the experiences and subjective views of actors” (Whipp 1998: 54) and as “[...] a highly efficient way to gather rich, empirical data [...]” (Eisenhardt and Graebner 2007: 28). The value of interviews as a research method in the present methodological approach is also found in the degree of flexibility, which “enables the researcher to open up new dimensions of a problem” (Whipp 1998: 54). In the course of qualitative interviewing the researcher not only looks for the answers to certain questions, but also has to figure out the ‘taken-for-granted’ understanding that actors have and use (Schutz 1967 in Rubin and Rubin 2001). In this way, qualitative interviewing allows insights into phenomenon, while remaining in context.

The most important distinction between types of interviews concerns the degree of standardisation and the form of the interviews. In terms of the degree of standardisation, Berg (2009) distinguishes between standardised, non-standardised and semi-standardised types of interviews. The difference between them is the degree of rigidity with regard to presentational structure of interview questionnaires. Depending on the form of interview conducted and the questions asked, interviews may be narrative, problem-centred, focused, ethnographic, expert or group interviews (Kruse 2008). In this dissertation the question of union formative processes was particularly well suited to problem-centred semi-structured interviews.

Problem-Centred Semi-Structured Interviews

The research focus of this dissertation – union formative processes – pre-supposes the existence of data related to material characteristics of union activities as well as subjective perceptions of union leaders, officers, members and workers. The possibility

to access such data is revealed through the use of problem-centred semi-structured interviews. The problem-centred interview aims to generate evidence by applying previous knowledge that serves as “a heuristic-analytical framework for ideas for questions,” and by simultaneously encouraging respondents to disclose what he or she determines to be relevant (Witzel 2000: 2). Simultaneously, this type of interview “[...] is a theory-generating method that tries to neutralise the alleged contradiction between being directed by theory or being open-minded so that the interplay of inductive and deductive thinking contributes to increasing the user’s knowledge” (ibid: 1). In total, fifty-eight interviews were conducted. Primary target interviewees were trade union presidents and leaders. The union leaders interviewed are all experts in their areas of activities. They have shaped the direction of internal union changes and the overall union development discourse. Some of the informants, in the case of newly established unions, participated in establishing the union for which they have been working or were those who initiated reforms within their union.

Surveys of the Ukrainian trade unions show (e.g. Sayenko and Pryvalov 2003) that the perception of union strength and positions taken by union leaders can significantly diverge from the perceptions of the same issues by workers, managers or state authorities. In order to take this into account, whenever possible, I asked a few workers at the enterprises I visited to share their view on unions. Access to workers was possible during the meetings with some respondents as well as through participation at union meetings or events. Initially, I also planned to interview managers or public relations and social affairs specialists. However, gaining access to managers was very difficult and was only possible in two cases (Zaporizhya Clinical Hospital and Sukha Balka). In cases where I could not access managers, I tried to compensate with thorough studies of enterprise and public media.

The duration of interviews was between 40 minutes and 3 hours. In some cases, the interviews were complemented by attending meetings which informants had scheduled with someone else. This provided additional insights and greater understanding of unions and their leaders. In the majority of cases two to three interviews were conducted with the same informant in order to reflect on the on-going development of their union over time. The follow-up interviews with the same informants took place approximately six to twelve months after the first interview and were also complemented with follow-up calls. Close to two-thirds of the interviews were recorded by digital voice-recording device with the informants’ consent. For each case under analysis, a documentation profile was compiled, which included interview transcripts,

participant notes and collection of other documents. Interviews that were recorded were transcribed in Russian or Ukrainian with only grammatical editing (there was only one interview in English). Some informants chose to talk 'off the record' for part of the interview or phone call. In those cases detailed notes were taken, which then provided a basis for data evaluation.

The Development of Interview Guidelines

In the process of drafting the interview guidelines an inductive-deductive procedure of interview questionnaire development, as suggested by Witzel (2000), was used in order to elicit 'storytelling'. The communication strategy aimed to generate storytelling and included pre-formulated introductory questions that focus discussion of the problem under analysis. Within the exploratory strategy, questions of understanding or comprehension were asked, so that the informant was encouraged by the enquiries of the interviewer to engage in storytelling. This approach allowed the building of a deeper understanding of the problems under examination and a degree of flexibility and openness in the questions asked. As the interview questionnaire is a supporting device used to jog the interviewee's memory of the research topics (Witzel 2000), it only provides a framework for orientation. The interviewer has to be able to spontaneously react to the informants' responses and immediately develop new questions as necessary.

As Witzel (2000) suggests, interview questions are usually based on previously developed categories or concepts and are asked without obscuring the original view of the informants. Given a degree of flexibility and spiralling in the research design, not 'theoretical concepts' but rather 'conceptual areas' (Berg 2009) were used, on the basis of which interview questions were thus formulated. Following the principles of processual research, 'the conceptual areas' for further development of questions included: 1) conflict (development, union role, involvement); 2) union characteristics (mission, agenda, structure, resources, attitudes to conflict and choice of relationship with or approach to employer), 3) union agency, and 4) outer context (legacies, external influences and actor constellation). For each of the conceptual areas a set of open questions in the form of "how", "what" and "why" (Pettigrew 1997) was formulated.

The questions were re-grouped into thematic blocks reflecting the informants' perceptions and the characteristics of trade unions: conflict, formation characteristics, union agency and external context. In this way, it was possible to start the interview by encouraging the informant to describe the conflict and the respective union's

involvement in it, but also to concentrate further discussion on the topics included in the questionnaire. Finally, it should be noted, that it was not possible to follow the interview questionnaire exactly during all interviews, yet it was still possible to collect data about aspects of conflict articulation and organisations.

2.4.2. Participant Observation

Participant observation provides unique opportunities to reach groups and get access to events that are otherwise inaccessible to the typical study (Yin 2009). Kawulich (2005: 2) defines participant observation as “[...] the process enabling researchers to learn about the activities of the people under study in the natural setting through observing and participating in those activities”. At the same time, participant observation entails a trade-off between certain advantages and the threat of bias connected to the role of the researcher (Yin 2009).

Participant observation conducted in the process of data collection for this dissertation took different forms including ad hoc attending union seminars, conferences, executive councils meetings, campaigning actions, protest preparation meetings, protests and pickets, founding meetings of trade unions, as well as court sessions, in cases where they took place. In total, participant observation included fifteen different events. Observations were documented in the form of field notes during and after every event. These notes provide records of what was observed, including informal conversations with participants and records of activities, during which the researcher was unable to question participants about their activities. The data that these observations contained were then included in the overall data analysis.

2.4.3. Document Analysis

Documents provide an important source of information about both the real-life context of a phenomenon and the phenomenon itself. In particular, when exploring and researching organisations, documents provide useful data that facilitate building an understanding of an organisation, its history, structure and its functions (Prior 2003). Documents include letters, e-mail correspondence, agendas, announcements, minutes of meetings, administrative documents, formal studies, and reports appearing in mass media (Yin 2009). Documents contain exact names, references and details of events, covering a long time span, many events and many settings. Their comparative advantage is that they can be reviewed repeatedly and are unobtrusive.

My analysis targeted those documents that are related to the trade unions' own process of self-positioning: strategy papers and action plans, press-releases, news published on their web-sites and newspapers, position papers, statements, and resolutions as well as complaints filed with the ILO and ITUC. Particular attention was paid to the documents produced by the FPU and KVPU and their respective member sectoral unions (when affiliated with any of the trade unions discussed in the dissertation's case studies) in addition to the documents of the enterprise-based trade unions chosen as case studies. Newspapers of the KVPU, FPU and AMKR trade union were also analysed, as they provided regular coverage of union activities and positions in different areas. Also, the analysis of related documents that were not produced by unions themselves included reports about trade unions in newspapers, radio and television, studies of trade unions and records of press conferences. By means of these sources it was possible to obtain a wider variety of diverse perspectives on union activities. Data collected from documentary analysis was also included in the case study and data analysis.

2.5. Data Analysis

Data analysis was conducted in several steps and followed a procedure of qualitative content analysis. As “[...] an approach of empirical, methodological controlled analysis of text within their context of communication, following content analytical rules and step by step models” (Mayring 2000: 2), this allows the researcher to condense and analyse qualitative data by means of categories. While a system of categories is at the centre of qualitative content analysis, the methodological literature on qualitative content analysis does not provide any explicit definition of the term ‘category’. As Mayring (2008) himself notes, the construction and definition of research categories – the centrepiece of qualitative content analysis – is scarcely described.

Mayring (2000: 3) refers to categories in terms of “the aspects of text interpretation”. Regarding categories Reinhoffer, for example, cites Miles and Huberman (1991: 80 in Reinhoffer 2008: 125), who see categories as, “[...] retrieval and organizing devices that allow the analyst to spot quickly, pull out, then cluster all the segments relating to the particular question, hypothesis, concept, or theme”. Hence, Reinhoffer understands categories as patterns of analysis that are more abstract than the material which is analysed, a sort of ‘umbrella term’ providing generalisations of concrete empirical elements (Mayring 1999: 79 in Reinhoffer 2008: 125). Grigoryev and Rastov (2001) define categories as key ideas (semantic or meaning units) in the text, which are based on definitions, the empirical indicators of which are set in the research design. The

present research design follows the definition suggested by Shalak (2004), who depicts categories as a selection of vocabulary units with similar definitions, hence, ‘conceptual constructs’. Content categories are understood in the present dissertation as conceptual constructs that are based on a selection of vocabulary units with similar definitions and provide generalisations of concrete empirical elements.

The development of the system of categories can proceed inductively, deductively or by some combination of both (Berg 2009, Mayring 2000, 2008, Mayring and Gläser-Zikuda von Beltz 2008, Reinhoffer 2008). Inductive categories emerge from “the dimensions or *themes* that seem meaningful to the producers of each message [...]” linked or grounded to the data from which they derive (Berg 2009: 347, emphasis in original). Inductive category-building approaches are characteristic of ‘grounded theory’ approaches. In a deductive approach to category development, a theoretical framework and a research question thus make up the starting point for the development of categories (Berg 2009, Mayring 2000, 2008). Categories are developed in the process of the operationalisation of the theoretical propositions (Mayring 2000). As Berg (2009: 350) notes, “[...] researchers need not limit their procedures to induction alone. Both inductive and deductive reasoning may provide fruitful findings”. Notably, in order to increase the reliability of categories, they are considered tentative or ‘open’ and are re-considered and adjusted in the process of content analysis (Berg 2009, Mayring 2000, 2008, Reinhoffer 2008).

Content categories for the present data analysis were developed in both deductive and inductive ways. Starting from the two major concepts on which the conceptual framework was based – inner context (organisation characteristics) and outer context (contextual dimensions) – three respective content categories were developed and divided into subcategories. These subcategories include mission, agenda, structure, resources and relationships with employers as well as attitudes to conflicts (inner context) and formal rules, legacies, external influences and actor constellation (outer context). They were complemented by the content category of ‘time’ referring to the point of establishment before and/or after the onset of post-socialist transformation. Additionally, two categories were added inductively: conflict and leaders’ background were derived from the analysed material. The list of content categories was revisited after the analysis of the first expert interviews and, for the purpose of increasing the reliability of the data analysis process, again after the analysis of all documents, participant observation and interviews for each case.

A detailed case analysis was produced from the data collected by means of narrative analysis strategy. In Pettigrew's terminology, such "events and chronology" is the starting point for the process of linking the data to the theory (Pettigrew 1997: 341). Such a narrative can be used as a basis for further analysis or to facilitate the development of the analytical concepts from the data (ibid). Each chapter ends with an analysis of the narratives of the two cases discussed in that chapter. Following both Pettigrew (1997) and Eisenhardt (1989), the analytical purpose of case studies is achieved, if case study findings can be generalised beyond those cases:

"[...] [T]he idea behind the cross-case searching tactics is to force investigators to go beyond initial impressions, especially through the use of structured and diverse lenses on the data. These tactics improve the likelihood of accurate and reliable theory, that is, a theory with a close fit with the data" (Eisenhardt 1989: 541).

The narratives of my case studies are thus discussed in a cross-case analysis in a separate chapter (Chapter 8).

2.6. Limitations

Qualitative analysis aims to collect information about facts, material circumstances and subjective views, and conduct assessments of the developments investigated by means of informants. The subjective views of informants are difficult to research in the FSU countries due to their history of seventy years of socialism. This is clearly a limitation of the research because in the Soviet Union it was not common to openly express criticism and at present informants are still very cautious about clearly articulating their own position and offering criticisms. Some of my interviewees did not look comfortable when criticising in public and only agreed to give their critical remarks off the record.

The second limitation of the research is access to informants. Many informants stressed that they did not see any benefits for themselves in being interviewed for research purposes. One potential informant even made the threat of filing a lawsuit if any research were done on her trade union. The lack of respondents' interest to participate in my research served as a reason not to research some of the unions initially chosen to be case studies. After some efforts to convince informants about the benefits of their participation in my research, some of those who agreed to participate seemed to be reluctant to share their views and were often very brief in their answers. This influenced the quality of data for those union cases compared to others for which the informants provided more extensive answers.

Thirdly, the interview questionnaire could not be strictly followed in every interview, as some of the respondents insisted that they would first speak on their own initiative,

permitting questions to be asked only after their narrative was told. In some cases, informants' descriptions were quite lengthy and thus left little time for clarifications.

In addition, the present dissertation focuses on trade unions whose leaders may perceive the position of the union more optimistically than workers or management. Therefore, sustained efforts were made to organise meetings with workers and enterprise managers or human relations specialists who mainly deal with trade unions within an enterprise. After several repeated attempts to contact enterprise management, access to them was possible in only a few cases. In particular, management at TNC subsidiaries outright rejected my request for interviews. Where no managerial views could be obtained through direct interviews, their positions were extracted from public declarations, interviews published in the media and enterprise-based press.

Furthermore, the sample presented here did not include newly established private enterprises or enterprises in the informal economy. The findings of the cases were generalisable only for pre-existing enterprises. Specifically, these cases are generalisable to privatised, state enterprises and TNCs' brownfield subsidiaries. Union-free enterprises and new managerial approaches to IR (i.e., the individualisation and informalisation of enterprise IR) are most likely to be common amongst newly established enterprises. As a consequence of their distinct structures, they might differ considerably in the specific operating conditions for unions in comparison to previously existing enterprises. Currently, very few trade unions exist at newly established private enterprises, meaning that further investigation into their processes was not possible. Initially, one such private enterprise was included in my choice of enterprises in the mining sector. Half a year after completing interviews at this enterprise, however, it was formally shut down, although it continued to operate in the informal economy. Transition into the informal economy consequently meant dissolution of the trade unions.

Finally, my previous employment at the KVPU may have negatively influenced my access to some of the former official trade unions and their readiness to answer my questions. Against a background of inter-union rivalry and competition between the previously existing FPU and newly established KVPU, some leaders reacted rather negatively to my request for research and refused to be interviewed by myself explicitly on the grounds of my employment background.

Chapter 3. Conceptual Framework: Union Formative Processes in the FSU

This chapter introduces conceptual points that frame the discussion of union representation in the FSU. The chapter begins with the normative assumption of conflict of interests between owners of capital and workers. Not only does this assumption distinguish the field of IR from the other fields of research, but it is also key to understanding ‘worker representation’ and union development. The second assumption of this conceptual approach is that the institutional structure of worker representation is not only comprised of formal rules but also actors’ ‘institutionalised practices’. Next, the chapter discusses union development and worker representation in the FSU using the theoretical approach of path dependence.

Based on these conceptual considerations, the concept of union formative processes is elaborated in the chapter. Engagement with union formation provides an opportunity to investigate how unions have been (re)constituted and to explore the possible patterns of union-based worker representation that were established at different points in time and during different political moments. The chapter concludes with a discussion of possible interdependent and reciprocal effects of different union formative processes and their implications for worker representation.

3.1. Conflict of interest as a distinguishing feature of IR

A central distinguishing feature of the field of IR from others has been “[...] an enduring conflict of interest [that] exists between workers and employers in employment relationships” (Kochan 1998: 37) and “[...] underlies everything that occurs in industrial relations” (Hyman 1975: 23). There is no consensus as to the source and scope of this conflict of interests itself. In the pluralist school of thought conflict is viewed as embedded in the structure of authority relations. Parties to the employment relationship are therefore tied together in an enduring web of partially conflicting and common interests (Blyton et al. 2008, Edwards 2003, Kochan 1998). Thus conflict of interests is inevitable, but collective bargaining and legal regulation help to institutionalise the conflict. In Marxist¹⁸ and neo-Marxist schools of thought (e.g. Hyman 1975, 1989, Hyman and Ferner 1994, Kelly 2000) the source of conflict is the separation of workers from the ownership of the means of production. Thus, the conflict of interests is all-encompassing, with differences between interests running deeper than those conflicts

¹⁸ Although there are different schools of Marxist thought, I refer here to the general overarching understanding of the assumption of conflict that is common to different Marxist schools.

that could be institutionalised. Being embedded in the class struggle in Marxist terms, elaboration of this conflict of interests could lead to the eventual overthrow of the capitalist system (Blyton et al. 2008, Edwards 2003, Kochan 1998, Müller-Jentsch 2004).

Common to both approaches is the premise that some of the employers' and workers' interests contradict each other. The existence of both legitimate sets of interests has acquired a strong normative recognition in IR scholarship (Blyton et al. 2008); on the one hand, there are those who work in various occupations and whose contribution to production is not adequately reflected in their pay ('hired workers'). On the other hand, there are those who can live from the labour of others by owning property ('owners of capital'). Between these two social groupings a conflict of interests exists which materialises as a constant and dynamic struggle between workers and employers over work-related issues (ibid). In view of this, "[...] there is broad social and political acceptance that labour possesses distinctive collective interests which (whether or not defined as antagonistic to those of the employer) need independent representation" (Hyman 2005: 11). IR thus involves "[...] co-operation, adaptation, and accommodation as well as conflict" (Edwards 1986: 5).

This normative assumption of a conflict of interests has been central to the revision of the definition of IR that had traditionally been perceived in terms of 'institutions of job regulation' (Dunlop 1958). The merits and weaknesses of Dunlop's approach become evident, as both rules and actors are in transition. Several objections were stressed in this regard (e.g. Hyman 1975, 1989, Kaufman 2004, Müller-Jentsch 2004), with three being particularly important for understanding IR in the FSU context. First, the system approach of Dunlop promoted 'norms and rules' to a position of central analytical importance. As stability appeared to be a structural imperative and outcome of IR, the dimensions of conflict and change were understated in this framework. Second, Dunlop's approach addresses employers, trade unions and the state as pre-formed unitary parties, taking no notice of the constitution of actors or their plurality. Finally, overemphasising the formal institutions, the system approach ignores 'the informal relationships' within institutions, in other words the 'the real men and women' and their activities (Hyman 1975) that can never be frozen in formal rules effectively. According to Hyman, (ibid: 12) IR therefore constitutes, "the processes of control over work relations," driven by workers and employers. 'The processes of control' implies that collective organisations and actions are included in addition to the law and regulatory procedures that are commonly analysed in IR. Hyman's definition of IR is also applied as part of this dissertation's approach.

The conflict of interests apparent during the early capitalism of western societies served as a foundation for the structuring and consolidation of western countries' IR and provided a basis for IR actors' formation and operations (e.g. Müller-Jentsch 1996, 2004). In this way, the dynamic process of collective organisation of workers' interests into trade unions led the state to allocate legal rights and set up state welfare institutions. These institutions provided new governance mechanisms of IR including: social classes, as workers acted via their organisations; 'management of interests', as unions formed, aggregated and intermediated members' interests; bilateral regulations that overarched conflict strategies; and the emerging arenas, institutional systems, and the provision of specific instruments for interest representation and conflict resolution. Given the concurrent evolution of collective actors and institutions, conflict of interests has had historical, political and cultural roots in society.

This construction and evolution of socialist systems of IR stood in stark contrast to the development of IR systems under capitalism. Socialist IR was built on the assumption of a confluence of interests between workers, enterprise administrators and the Party-State, so that any conflict of interest between workers and enterprise administrations was not recognised in a formal framework of IR. Consequently, socialist IR did not have room for collective social conflicts, conflicting interests or any expression of 'voice' by any of the existing social groupings, including workers. Also, socialist trade unions did not evolve as workers' self-run organisations which managed workers' interests but were imposed from above and thus had different functions. In this context, Clarke (1993) has made the point that Soviet socialism was characterised by 'conflict displacement'; the only potential conflict was the enterprise administrations' interests conflicting with those of the state planning authorities in the run up for the allocation of resources to enterprises.

By re-modelling post-socialist IR infrastructure on pluralistic principles that were based on conflict of interests, 'conflict of interests' between 'hired workers' and 'the owners of capital' was fundamentally installed in institutional terms from above. Terms such as 'hired workers', 'employers', 'collective disputes' and 'strikes' were introduced and respective rights were allocated to actors in the legal regulation and within different newly created arenas of IR. At the same time, the abrupt installation of formal rules did not leave sufficient time to allow the conditions and ingredients necessary for the natural evolution and realisation of the conflict of interests to materialise (thus, it did not leave sufficient time to allow classes and management of interests through the organisations to form, if we stick to Müller-Jentsch's argument). Neither was a

diversified structure of capital nor 'a capitalist employer' developed (e.g. Eyal, Szelényi and Townsley 1998, Gerchikov 1995, Morrison 2008). Nor did the institutional changes provoke trade unions to develop the respective representational capacities that are needed in order to generate and articulate the interests of the workers as opposed to those of enterprise management (e.g. Ashwin 2007, Ashwin and Clarke 2003, Crowley 2004, Kubicek 2004, 2007, Mandel 2004, Ost 2006, Pollert 1999b). Finally, after several decades of socialism, workers' interests might not necessarily be conceptualised on the premise of conflict of interests, as shown by the analyses of workers' collectivity for instance (e.g. Ashwin 1999b).

Interest representation based on the assumption of the potential conflict of interests is connected with a Marxist understanding of social actors as belonging to classes. However, basic assumptions about the sociological definition of class (such as, workers' consciousness, coherent language and ideology) are lacking in post-socialist societies (Clarke 1993, Crowley 2001, Ost 2005, Pollert 1999a). The very differentiation between 'hired workers' and 'employers' upon which a definition of 'class' would be constructed is weakly developed in the FSU (e.g. Aguilera and Dabu 2005). In many situations workers do not look to a trade union, but rather, to a strong manager for solutions to their work-related problems (Ashwin 1999b). Meanwhile, post-socialist trade unions and employers act in the 'producers' interests' (Sandschneider 1999) by participating in union-management alliances in similar attempts to keep enterprises alive (MacShane 1994). When compared to the institutional framework for the emergence of pluralistic IR interests based on conflict, the reproduction of the unions' previously constructed forms of worker representation have had the effect of producing 'chronically underdeveloped interest pluralism' (Kurtan 1999) or even reinforcing the 'conflict displacement' approach. As workers' interests are not perceived as conflicting with those of management, from the class-oriented perspective, such 'displacement' of conflict of interests inhibits the formation of 'independent class consciousnesses' (Clarke 1993). This observation implies that the existing path of worker representation has not had the expected effects in terms of the development of the representation of distinctive interests of workers.

The situation of underdeveloped interest pluralism, however, does not imply that the contradictions between workers' and employers' interests, or even between the distinctive interests of workers, are not present at all. Albeit a social grouping of workers might not necessarily explicitly demonstrate the classical characteristics of a class, the institutional structure allowed some previously unarticulated actors' interests

and practices to converge in the formation of organisations. Hence, its most important effect was in enabling the constitution of new union agents alongside the path of the adaptation being pursued by the previously existing trade unions. First and foremost, it enabled the organisation of 'alternative' trade unions. This positive effect, which the new institutional infrastructure had on the development of distinctive interests, is clearly shown by the development of trade union movements in almost all FSU countries into so- called reformed, successor trade unions and newly emerging unions. Consequently, these two processes of union development have applied different approaches to the enactment of that institutional infrastructure.

The notion of conflict of interests is thus important for the discussion of post-socialist worker representation because the institutional changes enabled the expression and articulation of a plurality of interests that had not previously been explicitly articulated. The emergence of worker strike committees and independent trade unions are clear examples, where the plurality of interests has become concrete. A growing plurality of interests and, essentially, conflicts requires approaches that reintroduce 'the unfashionable notion of class' (Pollert 1999b: 228-9) and explore, in the first place, which interest representation groups and conflicts were emerging within the IR framework and how they were potentially solved.

As the IR structure that grew out of the conflict of interests (in completely different political and historical contexts) was not underpinned by the respective practices of pluralistic interest representation, countries' IR systems were turned into systems that, in fact, contrasted dramatically with historically pre-dating socialist IR systems. Central to this contrast is the basic assumption of the interest confluence, which is in contradiction with the basic premise of the conflict of interests. Given that "[...] the constitution of agents and structures are not two independently given sets of phenomena, a dualism, but represent a duality" (Giddens 1984: 19, 25), the constitution of actors, and the reproduction of the structure through their institutionalised practices comes into focus alongside the rules that were installed through the new institutional infrastructure. Two further analytical points need to be integrated into the conceptual framework. On the one hand, the interactions between those institutions and endogenous pre-conditions of agency need to be addressed, while, on the other, the discussion of the institutional changes in terms of continuities, or path dependency and path changes, in the development of those same structures and actors is also necessary in order to reflect on the formation of worker representation.

3.2. Institutional Change as Interaction of Structure and Agency

In the analysis based on the premise of the duality of structure, institutional change is understood as the reciprocal relationship between institutions and institutionalised action, the structural and cultural dimensions of the institutions as well as the historical dimension of institution building (Eisen 1996). Core to these approaches to institutional change is the recursive duality of structure and agency, which is in line with the theoretical approach of Giddens. From Giddens' perspective of the duality of structure,¹⁹ the new institutional structure cannot be understood without unions' 'institutionalised practices' of representation that are both constrained and enabled by structure.

Notably, 'formulated rules' (codified interpretations of rules) were embedded in the FSU 'by design' (e.g. Stark 1995), based on their interpretation as promoted under western capitalist systems of IR. At the same time, this new institutional infrastructure of IR was installed on top of the previously existing structure of 'institutionalised practices' - the patterns people follow in their social life, "generalisable procedures applied in the enactment or reproduction of social practices" (Giddens 1993: 21-22). From this perspective, installation of specific institutions alone is not sufficient for effective institutional change (Eisen 1996). The stabilisation of the institutional system (institutionalisation) of post-socialist worker representation required the adaptation of those institutional structures and practices.

Once installed in given contexts, 'imitated institutions' are expected to interact with endogenous ones embedded into specific local contexts (e.g. actors, their interests, and frames of reference) (e.g. Bafoil 1995, Czada 1996, Eisen 1996, Eisen and Wollmann 1996, Wollmann 1991, 1996a, b, 1997). Actors' perceptions, norms and beliefs, which have formed historically (Elster, Offe, Preuss et al. 1998, Franzen, Haarland and Niessen 2005, Grabher and Stark 1997, Hausner, Jessop and Nielsen 1995, Lane 2002, Merkel 2008, Offe 1995, Raiser 2002, Shershneva and Feldhoff 1998, Stark 1995, 1998, Wollmann 1997) necessarily play a key role in this interaction. Thereby, actors' individual, collective and institutional learning and adaptation processes are necessary in order to bridge the differences between imposed institutions and inherent cultural

¹⁹ Giddens (1984, 1993, 2005) employs a recursive notion of action and structure. Structure is understood by Giddens as the conjunction of rules and resources. Rules are the patterns people follow in their social life, "generalisable procedures applied in the enactment or reproduction of social practices", of which actors are aware (hence, actors are 'knowledgeable' agents) (ibid: 21-22). The most significant rules are, "locked into the reproduction of institutionalised practices [...]" (ibid: 21-22) and are complemented by 'formulated rules' (codified interpretations of rules, not rules as such). Resources are created by human action and include allocative (material) and authoritative (non-material resources enabling the domination of some actors over others) sources of power.

patterns (Eisen 1996, Eisen and Wollmann 1996). The outcome of such institutional developments is, ideally, the mutual adaptation of transferred institutions and action patterns (ibid). Applied to worker representation, the effect of unions' learning to deal with a growing number of conflicts of interests would lead them to enact the institutional infrastructure in relation to conflict-based worker representation.

In order to facilitate collective learning processes and the formation of new actors and identities, exogenous institutions have to open a space for actors' knowledge (Bafail 1995). Given the variety of actor interpretations of situations, the success of institutional imitation and learning is contingent on the readiness of actors to coordinate and cooperate in the production of new solutions (Czada 1996). If these preconditions are lacking, the simultaneous constitution of actors and institutions can result in the reaffirmation of previous actor constellations and behavioural patterns (ibid). This proposition gives a hint at the nature of the co-development of trade unions. Within the institutional arenas of worker representation, union learning processes would advance as trade unions co-ordinate and cooperate in order to produce new forms of worker representation. If independent trade unions go ahead with the articulation of collective conflicts, this would likely spur learning effects within reformed trade unions. The precondition for this is the inclusion of both trade unions into the arenas.

Meyer's argument about 'informal politics' in CEE helps to better capture this co-development of formulated rules and institutionalised practices in post-socialist contexts within one and the same structure. In 'informal politics' Meyer (2006) emphasises that instead of the readiness to co-ordinate and co-operate, instrumental use of those same institutions influences the distribution of political power and the decision-making process. When compared with the structure of 'formulated' rules, as Meyer (ibid) and Zimmer (2006) have observed, political actors might thus act 'within' but also 'beyond' the formulated rules by not, in some cases, drawing exclusively on laws, but on their personal relationships with other actors for the bypassing of those same laws²⁰

Thus, there exist efficient, unwritten, often customary 'rules' (Meyer 2006) beyond the formulated rules, which are not 'institutionalised', as in the case of a formal (or in Giddens' terms, 'formulated') rule, but which are still characterised by their effective

²⁰ For instance, the significance of personal relationships in the post-socialist period is made clear in the analysis of worker representation within their labour collectives. Ashwin (1999a, b) has noted that workers prefer to look for a strong enterprise director to protect them instead of use existing institutionalised channels and trade unions, precisely because this director used to represent workers before and because he possesses the networks required and relationships to facilitate a more effective solution than workers' self-organised processes would.

usage and actors' agency (ibid: 20).²¹ These 'informal practices' have important implications for the development of the plurality of actors, including unions, as they can be easily used as tools of control and exclusion. Also, they can generate advantages and power for some actors over others. Raiser (2002) has argued that such advantages were indeed distributed unequally; the access of the previously existing actors to policy-makers helped them to gain the enactment of legislation that favoured them, thus making it difficult for emerging agents to even enter the policy-making process. In essence, precisely at the moment of the creation of the new structure of 'formulated' rules, which enabled new actors to organise themselves (in this case, independent trade unions), the actual instrumental use of the institutional infrastructure entailed a 'blocking' of the emerging competition by 'old' actors through institutional realms (ibid). Such an approach, which stresses the patterns of actors' interaction (personalised relationships and instrumentalisation of formal rules), can be combined with Hyman's perspective on IR as processes of control that integrate the informal relationships (when compared to the structure of regulation) and with Giddens' perspective of the duality of structure, in which 'institutionalised practices' and previously formed 'knowledge' of actors constitute integral parts of the structure.

3.3. Institutional Change as a Path Dependent Process

Within a perspective of 'path dependency', presently observed phenomena are understood to be historically conditioned (Thirkel, Scase and Vickerstaff 1995); the focus on the timing, order and sequences of events prior to the outcome has explanatory power for the analysis of this same outcome (Thelen 1999). The diverse effects of the socialist past on post-socialist IR are broadly recognised in the IR literature (e.g. Adamski 1999, Arandarenko 2001, Crowley 2004, Ost 2006, Thirkell, Petkov and Vickerstaff 1998). The impact of the past is particularly palpable in unions' and workers' values and perceptions that have continued to shape actors' behaviour and worker representation. In light of the dual understanding of institutions and agency it is important to recognise that these 'legacies' can, "narrow down the potential alternatives for actions," (Beyer 2006: 12) but may also provide liabilities, assets and resources of action (Stark 1995: 69).

²¹ Soviet practice, for instance, was rich with such informal relationships, which helped to compensate for deficiencies in the formal rules (Alashev 1995a). Lampert (1986: 273) has noted that "[t]he importance of the informal understandings means that, on the one hand, [...] the management acts indulgently towards formal violations of labour discipline. On the other hand, people [...] are highly dependent on the good-will or ill-will of the boss. One can break the written rules and get away with it. But in the event of a breakdown in personal relationships, an employee who has fallen out of favour cannot expect indulgence".

Extensive overviews of path dependency have been repeatedly developed in the literature (Beyer 2005, 2006, Garud and Karnoe 2001). In a narrow conceptualisation of path dependence, it was argued that events develop along a certain path once triggered by an event (or events) during ‘a critical juncture’. Their development is reproduced with the help of self-enforcing mechanisms along this same path until a new critical juncture dislodges it. As Deeg (2001) correctly notes, the analyses lack a strong definition of ‘path’ as well as a clear conceptualisation, which explains for instances when a certain path is taken, ended or replaced. He offers “[...] a concept of ‘path’ that rests on the notion of an institutional logic, i.e., that a path is defined by the logic (predictable strategies, routines and shared decision rules) generated through the operation of a given institution or institutional system” (ibid: 36).

Of further interest for the conceptual approach of this dissertation is the criticism that the earlier path-dependency analysis overemphasised the stability of the path taken and left little space for exogenous influences, actors’ choices and learning processes, and moments of instability (e.g. Avdagic 2006, Beyer 2005, 2006, Bohle 1999, Pollert 1999b). Therefore, later analyses of path dependencies look for instances and conditions of institutional change within and alongside those same paths and include the forms and types of those changes (e.g. Streeck and Thelen 2005); the mechanisms ensuring the reproduction, adjustment or even a departure from those paths; and the factors forging path creation (Beyer 2005, Deeg 2001, Ebbinghaus 2005, Garud and Karnoe 2001, Stark 2006, Stark and Bruszt 1998). In these analyses, it is recognised that actors’ agency (including strategic interventions and learning processes) affects the subsequent development because actors keep adjusting their strategies during subsequent developments (e.g. Avdagic 2006, Beyer 2006). This point is more explicitly emphasised in historical institutionalism.²² Contrary to the early path dependency analyses, the proponents of historical institutionalism (e.g. Pierson and Skocpol 2002, Steinmo 2008, Steinmo, Thelen and Longstreth 1994, Thelen 1999, 2002) do not look at the stability of the path taken, but at the selective reproduction of paths. Thelen (ibid) points out that, under the conditions of path-dependency, actors have the capacity to reflect and decide

²² Steinmo (2008), for example, defines the focus of historical institutionalism as taking an historical orientation of real world empirical questions and the ways in which institutions structure and shape political behaviour and outcomes. Importantly, the definition of institutions included in historical institutionalism includes both formal organisations and informal rules and procedures that structure conduct (Steinmo, Thelen and Longstreth 1994: 2) and so, can be combined with the general perspective on the duality of institutions. More specifically, as Pierson and Skocpol (2008) have noted, historical institutionalism is characterized by three features: a focus on big, substantive questions; an emphasis on time and sequences; and an analytical focus on macro contexts and combined effects of institutions and processes rather than on just one institution or process at a time. In short, these three characteristics include substantive agendas; temporal arguments; and attention to contexts and configurations.

what to reproduce: the actors can, hence, find the key to ‘unlock’ the subsequent development from the previous path (Beyer 2006). Such actor-relevant interventions serve as ‘feedback’ and ‘reproduction’ mechanisms (Pierson 2000 and Mahoney 2000 in Beyer 2006). These same mechanisms characterise not only ‘critical junctures’ but also subsequent ‘paths of development’. Consequently, actors can adjust the path by providing or withdrawing feedback mechanisms, and so, lead to the preservation, adjustment or development of a completely new path. From this perspective, the possibility to make choices and impact development thus exists at moments of ‘critical juncture’ and afterwards.

Some of these analyses (e.g. Beyer 2006, Deeg 2001, Ebbinghaus 2005) turn down self-reinforcing (positive feedback) mechanisms in order to explain the patterns of institutional innovation or even creation. Deeg (2001) uses, for instance, six different mechanisms in order to analyse institutional changes: large set-up costs, learning effects, coordination effects, adaptive expectations, political power and legitimacy. Depending on the school and approach, there are a variety of mechanisms, however, these mechanisms and the conditions leading to their different forms have not yet been clearly delineated (Ebbinghaus 2005).

Combining historical institutionalism with a rational choice perspective (e.g. Thelen 1999, 2002, Hausner, Jessop and Nielsen 1995: 8) sheds, ‘new light on the dialectic of structure and strategic action,’ and echoes Giddens’ concept of ‘the duality of structure’. This ‘path-dependent path-shaping’ perspective (Hausner, Jessop and Nielsen 1995: 8) is helpful in order to reflect on mechanisms affecting institutional changes in worker representation as related to the agency of unions. Within their path-dependent development, trade unions make strategic choices (Huzzard, Gregory and Scott 2005) and so, choose their paths (Hausner, Jessop and Nielsen 1995, Thelen 1999). This possibility enables a ‘path-enforcing’, evolutionary development of worker representation based on earlier union choices and practices, such as previously existing trade union representation. Inversely, this also enables ‘path-breaking’ development, which includes new forms of worker representation, as expressed in the representation of patterns of independent trade unions.

This co-development of successor and newly emerging trade unions is particularly important as it demonstrates that path-enforcing and path-breaking co-developments in worker representation are taking place alongside one another. This constellation has not been extensively discussed in the path dependence approaches. Deeg (2001: 14 ff.), for

instance, differentiates between on-path and off-path developments: actors may resort to their previously used strategies, routines, and decision rules. When these elements of the paths' preexisting logic are preserved in the course of adaptations (and institutional change), this constitutes on-path development. Inversely, when a new logic is created through adaptations of formal and informal institutions, off-path institutional change, or a departure to a new path is set in motion. In addition, a new institutional path can even acquire a form of a hybrid. Similarly, it is possible to reject the mechanisms of institutional stabilisation that were observed by Alexander (2001) in relation to homogeneous or heterogeneous actors. The former assumes that everyone makes roughly the same cost and benefit analysis, favouring the status quo. The latter highlights that costs and benefits may not necessarily be distributed equally, but the actors who prefer change are relatively weak, while actors who favor the status quo are powerful enough to determine the political outcomes. Beyond these proposals, the analyses based on the concept of path dependence stop short of fully exploring path development under the conditions of heterogeneous actors.

At first glance, the plurality of trade unions initially provides some institutional change, as workers are no longer exclusively represented by one trade union organisation. In the sense of mechanisms proposed by Deeg set-up costs and legitimacy would likely be of central importance here in order to understand the mechanisms of change in this initial phase. Additionally, union plurality is likely to result in a possible re-distribution of political influence as well as in learning processes of different trade unions, affecting the enactment of the institutions and subsequent development on a certain path. During this phase, problems of coordination, learning and adaptation of expectations as well as political influence may become more important for understanding the paths than for understanding the first set-up phase. However, the issue of the co-existence of trade unions has hardly been discussed in the literature on union developments. For this reason, it is not clear to what extent the characteristic differences between trade unions, each emerging at a different point in time and a different political moment, made the coordination, cooperation and learning between trade unions possible. Therefore, it is also unclear what changes are possible in terms of bridging the distance between the institutional framework, actors' agency and institutional change, as emphasised by Czada (1996), and in terms of path-shaping path-dependent development, as emphasised in more open path dependence conceptions. In order to develop this point further, the concept of union formative process is addressed below.

3.4. Formative Processes of Trade Unions

Given that pluralism²³ of interests is recognised in institutional terms, unions must have had to move from the transmission-belt union model towards the classical model of worker representation more common under capitalist social relations. Under socialism, the establishment of trade unions was ideological: trade unions were installed in order to serve as ‘a school of communism’ and as the ‘transmission belts’ of the Communist Party (Lenin 1920). Socialist trade unions maintained no autonomous functions²⁴ in their capacity as an independent actor in social and labour relations (Thirkell, Petkov and Vickerstaff 1998). Also, they “[...] did not possess the traditions and experience of activity in the conditions of pluralism of the trade union structures and employers [...]” (UCEPS 2001: 29). Involvement in interest-related conflicts and pluralistic bargaining has not been a common practice of socialist trade unions either. From the perspective of pluralistic, conflict-based IR, this path of union formation as common under socialism has precluded the development of what Kelly (1996) calls the ‘attributes’ necessary for the independent articulation of workers’ interests. Given the historical development of trade unions, “[...] a fundamental reorganisation of the trade union movement,” (Buketov 1999: 97) was expected in the FSU. In the FSU context the ‘reorganisation’ of trade unions refers to the need to develop the ‘attributes’ of union capability to provide conflict-based worker representation.

This dissertation argues that, as trade unions start to develop new representative roles, they embark on formative processes. Croucher (2004: 106), for example, finds that union-inherent changes are necessary in terms of (1) interests which should reflect “[...] the balance between direct assistance to members, campaigning, and bargaining”; (2) new structures and forms of union internal democracy; (3) the coherence of unions’ agendas with members’ concerns; (4) unions’ internal powers and operations; and (5) unions’ new roles. Similarly, Huzzard, Gregory and Scott (2005) point out that under the new conditions trade unions are challenged to make strategic choices about their identity and ideology, activities and relationships with employers, members, other unions and civil society. These arguments show that the process of union reorganisation requires deep changes that go beyond simple, superficial changes to unions’ organisational structures and reach the underlying logic of union representation of

²³ Interest pluralism refers here to potential conflict of interests of workers and employers as well as the potential representation of workers’ interests by several trade unions as envisaged by the institutional framework of IR.

²⁴ Many former Party functionaries were appointed to positions in trade unions while also being responsible for implementing the directives of the Party. Hence, trade unions had no autonomous functions, as the Party had direct control over union decisions and activities.

workers' interest. Given this historical background to post-socialist trade unions, the discussion of the formation of trade unions should start with more fundamental issues related to member organisations and assumptions taken for granted in the sociological literature.

As the normative model of member-based organisations envisages, on the primary level of union activities, rank-and-file members unite in order to protect their interests, for members' union involvement provides the major source of power for such an organisation (Ilyin 2001 in Kozina 2002). From this perspective, the challenge of post-socialist unions under the new conditions is to become member-based interest organisations, thus, to provide independent worker representation as related to the owners of capital. This would mean a break from the formerly used lived practices of worker representation, which were based on the representation of 'a commonwealth' of an enterprise, including both workers and employers (Gerchikov 1995). As union-specific characteristics and services are still formulated in particular historical ways, the scholars questioned whether the path-enforcing development of the majority of trade unions could lead to the establishment of unions as member organisations, with members' interests playing a determining role (Kozina 2002).

By contrast, significant changes in the forms of worker representation present were observable in the analysis of the independent trade unions that grew out of the strikes (Bizyukov 1996, Borisov, Bizyukova and Burnyshev 1996, Borisov and Clarke 1996, Clarke and Fairbrother 1993, Clarke, Fairbrother and Borisov 1995, Crowley 2000, Fairbrother and Ilyin 1996, Vasi 2004). The emerging 'independent' trade unions expressed their opposition to the idea of representing the unity of labour collectives by excluding the representatives of enterprise management from union membership. This clearly indicates these unions' attempts to develop more conflict-oriented worker representation, as such worker representation is based on the differentiation of and separation between workers' and employers' interests, and thus, demonstrates a departure from the path. Against the background of the adaptation of the successor trade unions, these "[...] new forms of unionism," (Fairbrother and Ilyin 1996: 304) signal the 'path-breaking' development in worker representation. Given that these two paths have emerged alongside each other and within one and the same institutional structure of IR, the simultaneous development of both of these paths has clearly influenced emerging worker representation.

The concept of ‘union formative processes’ is an analytically useful category for exploring the possible interactions between the paths of union development in the FSU and for reflecting on these union changes, challenges and choices. First, in line with the phases of path development (critical juncture, stabilisation and replacement), ‘formative processes’ is useful for developing analytical distinctions between the ‘logics’ of worker representation, as represented by reformed and independent unions and their specific characteristics, that have been established at different points in time and at different political moments.

Importantly, such differences are less visible at the primary phase of union formation, because all union roles and functions were formulated in the same abstract, imprecisely defined terms of ‘worker representation’. Therefore, the first phase in which a path-breaking union formation is emerging needs to be differentiated from the subsequent phases of union development and, possibly, consolidation of one or even two paths alongside. Given the specific historical backgrounds of former official and newly established trade unions, the ordering and sequencing of their development thus helps explore the development of worker representation in a more comprehensive manner. Below, I proceed with the concept of union formation first, including the phases of such formation. Next, the dimensions on which the logics of worker representation are based are depicted and their internal interactions explored.

3.4.1. The Phases of the Union Formative Process

Changes and transformations of union roles and practices are long and dynamic processes. In order to account for these dynamics, a distinction must be drawn between different phases of a formative process. The approaches of path dependence define three such phases: critical juncture as a formative moment at which a path is set up; a subsequent stabilisation phase; and finally, a lock-in or a dislodgement of the path (e.g. Ebbinghaus 2005). Similarly, three different phases of union formation in the FSU context are suggested: organisation, operation and consolidation.

The first phase of union formation is associated with the moment of institutional formation identified in the path dependency literature as a ‘critical juncture’ (e.g. Beyer 2005, 2006, Ikkenberry 1994 in Thelen 1999). At a moment of critical juncture countries are sent along a specific developmental path. Actors’ agency is particularly important here as the very outcome of the path depends upon the actors’ agency at this formative point in time (e.g. Grabher and Stark 1997, Stark 1995, Stark and Bruszt 1998).

Similarly, at the initial phase of union development – the organisation phase - unions are challenged with formulating their initial role and position. This has implications for a specific logic of worker representation as well as subsequent (concurrent) union development. Importantly, the organisational structuring of unions at this point of development does not refer to their physical establishment, but to the (re)formulation of union activities and further course of action, even if its fundamental organisational form has existed in a certain form for some time already. This depiction of the organisational phase of union development allows for the inclusion of both newly established trade unions and pre-existing unions. Although the common declaration of the representation of workers and their rights and interests in the union organisational phase appears to indicate a break from the previous path of union development (reformed trade unions declare themselves to be defenders of workers' interests just as the independent unions do), the analysis of this phase does not yet permit observation of how trade unions prioritise the potential conflict of interests in their activities and actions. Thus, the distance travelled from the starting point remains unclear.

Secondly, complementary to the re-definition of union roles, the organisation phase of trade unions is particularly important for exploring the concurrent (re)organisation of successor and newly established trade unions alongside each other. Yet, the differences between reformed and independent trade unions, originating in the formation of their logic of representation, are likely to have a different influence at this point, when compared to subsequent phases in terms of set-up costs, co-ordination, learning, adaptive expectations and even the distribution of legitimacy and political influence.

In analyses based on path dependence (e.g. Thelen 1999) a critique was raised that developments on the path, especially after such 'critical junctures', are taken for granted, as actors' agency is expected to be guided by the institutions that were set at the moment of critical juncture. In post-socialist contexts, the newly established institutions may not be strong enough to shape actors' strategies (Avdagic 2006). As Avdagic (ibid) and Thelen (1999) stress, actors' agency is important for the enactment of institutions during the periods of subsequent institutional development beyond the periods of critical junctures. More specifically, the installation of new institutions across post-socialist countries does not automatically result in a definite path of development but rather, in a set of possible paths (Avdagic 2006). The choice of the path to follow ultimately depends on feedback and reproduction mechanisms embedded in actors' institutionalised practices.

These ‘feedback’ and ‘reproduction’ mechanisms characterising the post-formation periods become more explicit, if one looks at the subsequent, operation phase of union formation. The operation phase of trade unions reflects how trade unions routinise their choices into their everyday practices and operations and how they collect actual experiences and knowledge. Through drawing attention to the concrete activities of unions, an analysis of the operation phase helps to first identify which union attributes and activities have been developed by trade unions in order to later identify the progress travelled from the organisation phase.²⁵

In addition, an analysis of the union operation phase helps to identify possible forms of inter-union interactions. Although multi-unionism may undermine labour movement solidarity and union effectiveness (Harcourt and Lammark 2010), especially by diverting attention from their core business (Rokhani 2008), multi-unionism itself does not necessarily involve inter-union conflicts or inter-union rivalry (Cohen 1975 cited in Harcourt and Lammark 2010). Inter-union competition may lead to greater union efficiency and effectiveness, as unions are challenged to develop a greater responsiveness to the needs of their members and to improve their performance. However, as two or more unrelated labour organisations actively compete, “[...] for the control of the workers employed or the work habitually performed within a particular trade or occupation” (Freeman 1989 cited in Pawlenko 2006: 651), inter-union rivalry emerges. The exploration of this operation phase of trade unions allows the effects of union set-up, learning, coordination, adaptive expectations and legitimacy and political influence to be included through the exploration of possible union cooperation or rivalry.

A vital question that arises in relation to union choices and operation is whether they lead to the consolidation of one or more paths and, in addition, how consolidation can be understood in the context of post-socialist transformation. The meaning of ‘consolidation’ in the conceptual approach of this dissertation is based on the normative assumption of conflict of interests. Whereas workers and employers do have common interests in certain areas, many negative implications for workers, including drastic wage cuts and longer wage delays, provide the basis for a conflict-based conception of workers’ interests and representation. Trade unions which independently represent

²⁵ For example, some trade unions saw their alignment with management (e.g. Ashwin 2007) as a means to realise workers’ protection, for in some cases, union-management alliances might have inhibited the development of unions’ independent organisational strength (Ashwin 1999a, b, Crowley 2000, 2004, Crowley and Ost 2001). At the same time, this observation shows that the changes in the declared role and functions were not underpinned in the respective union actions and activities, showing, thus, that no substantive changes to worker representation can be observed.

workers' interests must develop strategies and activities that address this conflict-based conception of workers' interests. Otherwise trade unions would be unlikely to receive support from workers, thus becoming vulnerable actors. Consolidated trade unions are therefore those whose activities are developed and realised on the basis of a potential conflict of interests.

A consequence of this depiction of consolidation is that although both paths may continue to exist alongside one another, not all learning processes are likely to contribute to the consolidation of all union organisations. In particular, the possibility to ensure further existence of reformed trade unions by reproducing the previous logic of worker representation indicates that conflict-based worker representation is not an ultimate outcome of union formative processes. Secondly, depending on the interactions between successor and independent trade unions during their organisational and operational phases, the concurrent development of different unions may undermine the formation of a strong union movement and thus may not lead to the consolidation of unions at all.

On the basis of this understanding of the phases of union formation, the chapter proceeds further with the discussion of the different dimensions of union formation that help to differentiate between these two trade unions in terms of their logic of representation. To recall, the logic is defined by Deeg (2001) as predictable strategies, routines and shared-decision rules generated through the operation of actors, which provide the foundations for the understanding of the 'path' concept. Albeit that some propositions concerning the dimensions of union formation are taken-for-granted, particular attention needs to be drawn to them in reference to the legacies of post-socialist IR.

3.4.2. Dimensions of Union Formation

Identity and Mission

Trade unions are essentially organisations which represent hired workers. With this common understanding pervading western sociology, debates on union identity address a triangle of union identities in terms of market, class and society. In reference to the first part of the debate (Hyman 1994, 2001), market identity refers to the prioritisation of unions' economic tasks, such as bargaining and wage increases. Class identity refers to the union mission to build workers' awareness and class consciousness. Finally, social identity of trade unions refers to unions' social role. The second part of the debate refers

to the question of whether the model of business or social movement unionism offers a better future for the union movement. More specifically, the central question with regard to the model of unionism is whether union activities should be focused on bread-and-butter issues, such as organising and bargaining (e.g. Bronfenbrenner and Yuravich 1998, Bronfenbrenner and Hickey 2004, Ost 2002 in Hyman 2002), or on building broader alliances with civil society in an attempt to achieve broader social goals (Hamann and Kelly 2006, Meardi 2002 in Hyman 2002, Waterman 1999).

The broader context of post-socialist transformation brings into question whether the identities of post-socialist trade unions can be discussed in terms of market, class, society or even business and social movement unionism. The roles of the unions in terms of class, market or society are problematic under the conditions of emerging markets, the ideologically tarnished language of class, and a weak civil society. The background of the identity debate in the FSU was shaped by the roles trade unions played in the past and problems that workers currently confront. Trade unions in the FSU historically identified themselves with a broad workers' mass, structured as labour collectives that included both workers and enterprise administration. The absence of differences in the interests of both workers and enterprise administrations was taken for granted within labour collectives. As a structurally integral component of the labour collective, trade unions represented both workers *and* management.

Given this history, "[...] a concomitant ideological vacuum for building workers' movement with its own project," (Pollert 1999a: 212) became evident, when trade unions were challenged, "[...] to carve out a new identity which was not tarnished with the past, find a language untainted with excessive favour and discredited terms [...]" (ibid). This legacy of the socialist system of IR provokes the question of whether simply declaring themselves 'pro-worker' ultimately indicates that trade unions have actually adapted to the representation of hired workers in opposition to employers. Importantly, even directors of enterprises were historically classified as 'employees' in a similar way as other workers and consequently they remained union members (e.g. UCEPS 2001). Some trade unions have continued to simultaneously serve workers' and managers' interests in the post-socialist period (e.g. Ashwin 2007). In the case of one of the unions in Russia, Gerchikov (1995: 157) observes that,

"[n]obody at the enterprise, including the union leaders themselves, sees the union as an organization that defines, expresses and protects the employees' interests in opposition to employers. On the contrary, [...] the unions' highest value is the interest not of its members, but that of the enterprise itself, or of a certain "commonwealth".

This shows that in spite of their ‘pro-worker’ identity, trade unions might have continued to identify themselves with all who belong to the enterprise. Given that union membership may include both hired workers and managers, the potential difference in workers’ and employers’ interests can no longer be articulated within an enterprise because the managers of trade unions could intervene to inhibit the process of building independent pro-worker identities within the union context.

In the context of post-socialist transformation, it is impossible to take for granted that the new role of trade unions in terms of worker protection will automatically cause trade unions to identify with hired workers and their potentially conflicting interests. The question of union identity in the post-socialist context thus concerns a tension between the representation of both workers and managers as parts of a labour collective and a move towards adapting the approach to exclusively represent hired workers.

Union Agendas

Union activities and services should be coherent with hired workers’ interests because unions are, in essence, member organisations. The classic formulation of the trade union’s agenda includes the identification, aggregation and articulation of workers’ interests (Offe and Wiesensthal 1980). In this sense, unions are confronted with:

“[...] the entire spectrum of needs that people have when they are employed as wage workers. This multitude of needs of “living” labour is not only comparatively more difficult to organise for quantitative reasons, but also for the reason that there is no common denominator to which all these heterogeneous and often conflicting needs can be reduced so as to “optimise” demands and tactics” (ibid: 75).

In addition to this multiplicity of members’ interests that undeniably exists in post-socialist society (as much as in any long-term capitalist society), another generally accepted function of trade unions is to force the owner to give workers more for less work (Vyshnevs’ky, Mishenko, Pivnyev et al. 1997). This explains the common union focus on collective bargaining, however, diverse additional activities are also introduced by trade unions in order to make unions more attractive to workers.

The distinct role of trade unions under the socialist system of IR and consequently the distinct functions of unions (discipline, distribution and social services) were not aimed at building coherence between the multiplicity of workers’ interests as not all of these interests were given recognition. The implicit understanding that both the Communist Party and trade unions operated in the interest of workers contained a specific paternalistic conception of workers’ interests that was defined by the Party rather than being based on workers’ input or any sort of participatory process. Socially supportive

activities such as paid sick leave, distribution of goods, gifts, provision of social insurance services and organisation of recreation were of primary importance and the only agenda enacted by trade unions under the socialist system of IR. While the practices of collective bargaining were practiced under socialism, they aimed to ensure productivity increases and to discipline workers (e.g. Ashwin and Clarke 2003). In this sense, socialist trade unions operated in order to force workers to work more for less (Vyshnevs'ky, Mishenko, Pivnyev et al. 1997).

Central to the reformulation of union agendas is the transition from this paternalistic conception of workers' interests, as described above, towards more specific concepts of workers' interests as expressed by workers themselves. This implies firstly a move towards the formulation and aggregation of interests specific to hired workers in employment-related settings. Secondly, a retreat from prioritising their role as service providers and focusing union agendas instead on decent wages, working conditions and employment security; all of which are the product of strong and effective collective bargaining.

Union Structure and Internal Relationships

In order to address trade union structure, here the focus is on internal union organisation, examined as the interrelation between union leadership and members. Unions are member organisations by their nature and consequently members' participation and organisational commitment have traditionally constituted the basic structural attributes of trade unions. Constituting themselves from the bottom and emerging as workers' self-led organisations, classical trade union structures have been an expression and form of workers' self-organisation and collectivity (e.g. Sayenko and Pryvalov 2003, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). As unions keep growing and union leaders accumulate knowledge and experience, there is a risk that trade union leaderships become self-perpetuating, conservative oligarchies (Cornfield and McCammon 2003, Michels 1915). In order to avoid this, workers' participation in the processes of the union is essential. This interrelation between union leaders and members' participation constitutes a particular structural characteristic reminiscent of trade unions that distinguishes them from many other organisations.

The structure of socialist trade unions mirrored that which was typically characteristic of trade unions more generally. The specific structure of Soviet trade unions was "democratic centralism" (Ashwin 2007, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997).

Democratic centralism combined formal membership of workers in trade unions, the egalitarian status of union leaders and consumer-like union-member relationships.

Firstly, the Soviet form of collectivity discouraged any participation or self-led initiative, thus facilitating worker atomisation and individualisation (e.g. Ashwin 1999a, b, Clarke and Fairbrother 1994). Ashwin (1999a: 249) finds that this model of collectivity and labour collectives in particular were “[...] an entity external to individual workers and work collectives, [Therefore, it was] an alienated collectivity in which workers relate to their own collective existence as something standing outside and opposed to them”. Worker collectivity and *a priori* trade unions were solely an aggregation of workers bound by a specific type of control and consumerist relations, which emanated from the collectivity being imposed from above.

As mass organisations, socialist trade unions did cultivate members’ participation. However, they did it solely in the areas defined by the Party-State (such as socialist work competitions and the run up to the fulfilment of production targets). Participation and ‘workers’ willingness to act’ (Offe and Wiesensthal 1980) in areas other than those defined by the Party were punished (e.g. Grancelli 1988). Crucially, independent interest representation by trade unions was targeted, when militant forms of worker participation (e.g. through independent unions) were aggressively suppressed under socialism. From the perspective of workers’ interest representation, membership in socialist trade unions was thus ‘formal’. Representation excluded any voluntary participation or independent interest representation and limited workers’ input to efforts aimed at increasing production.

Secondly, the majority of union functionaries were Communist Party officials enjoying an elite social status. As has been often observed (e.g. Ashwin and Clarke 2003, Thirkell, Petkov and Vickerstaff 1998), trade union leaders were a part of the governing ‘triangle’ consisting of enterprise administration, union president and Communist party secretary. The elite status of union leaders was further re-enforced by the distributive activities of trade unions. Union leaders were key gatekeepers for the distribution of different goods (including apartments) and services as they distributed these in a discretionary fashion.

Thirdly, workers saw unions as distributive organisations from which workers would ‘consume’ goods and services (UCEPS 2001). Under regulation by the communist Party-State, workers’ immediate work-related interests (e.g. wages) were understood to be outside the scope of union activity. Workers were thus connected to trade unions through the provision of different, mainly non-work related, material rewards, although

this was not through wage bargaining. Consequently, a consumerist motivation formed the foundations of the union-workers relationship.

Given the historical development of union structures, issues of accessible leadership, active membership and reconstitution of union-worker relations of collectivity become central to the structural analysis of post-socialist trade unions. Especially as independent trade unions start to develop a structure, which accommodates leadership elected by and from workers as well as workers' self-organisation (Ledin 2009a, b, Ledin, Agapov, and Belogradin 2010), an historical lack of participatory traditions and consumerist relationships raises questions about the limits of workers' willingness to participate in any of the trade unions.

Resources and their Accumulation

Resources a union uses in order to grow its power vary and can include material, financial, symbolic, institutional or mobilisation resources. While material and financial union resources are important for a union's physical existence, the major resource and, "[t]he only reliable foundation of unionism [is] the membership's willingness to act collectively against the employer" (Kelly 1996: 21, Offe and Wiesensthal 1980). The highest degree of militancy is achieved through the development of sustained union power, not through a spontaneous or symbolic collective action. Successful militant actions of unions mean that the subsequent union demands are likely to be satisfied before a militant activity takes place, thus building 'the external guarantee' of trade unions' continued existence and unions' 'virtual power' (ibid).

Soviet trade unions were not concerned about material and financial resources under socialism. The unionisation rate of nearly 99% provided a solid financial base for unions. Additionally, the Communist Party provided unions with extensive resources including establishments and facilities. This allocation (as opposed to independent organisational accumulation) of resources was premised on a different conception of union power when compared to the classical conception of union power based on the independent and collective power of workers described above. In the historic socialist setting union power was the result of unions' contacts with Party officials. This enabled the resolution of many issues by means of 'informal' bargaining done by trade union officials with enterprise management or planning authorities (e.g. Aguilera and Dabu 2005, Alashev 1995a, Bohle 1996, Clarke and Fairbrother 1994, Thirkell, Petkov and Vickerstaff 1998).

Hence, the source of union power was in 'political' influence and inclusion in the triangle of 'bosses' of an enterprise.

In the post-socialist period, meanwhile, a need to re-define resource bases has emerged. The foundations of organisational power (e.g. such as legitimacy granted by the Communist Party or automatic membership of workers in trade unions) no longer existed (Hoffer 1998). As membership numbers declined, this challenged unions to secure their material and financial, but also symbolic, resources. To this end, in many cases unions continued to rely on 'political' resources (e.g. Borisov, Bizyukova and Burnyshev 1996, Clarke, Fairbrother and Borisov 1995, Crowley 2000, Hoffer 1998), often without developing the workers' mobilisation capacity. At the same time, the political contacts and relationships that unions' have are never permanent. Policy-makers change in every system. Hence, by relying on these sources of union power, unions develop a power which is dependent on external factors in lieu of one based on a more stable and independent, internal source of power such as member mobilisation.

Unions' Relationships with Employers

Unions' relationships with employers are indicators of the broader position union leaders take in relation to employers. This position can vary and includes a broad scope of attitudes. In light of the premise of conflict of interests, union-management relations initially form as antagonistic in nature (Müller-Jentsch 1996, 2004). It is in the course of further development that union-management relationships often change from antagonistic into more partnership-oriented relations (e.g. Frege and Kelly 2006, Kelly 1996). Importantly, this cooperation was built on the basis of the gains previously made through independent, militant activities. As Western European trade unions committed themselves to more cooperative relations (i.e. social partnership), their relationships implied conflict-based cooperation. Socialist IR, however, was not based on a premise of conflict, but instead on one of unity of interests. Consequently, no antagonistic attitudes towards enterprise management and conflict-free, cooperative union-management relationships were practiced under the socialist system of IR. Importantly, confrontation between workers and an enterprise's management took place exclusively outside of trade unions.

This pre-history of union development has led to the growth of specific, context-appropriate forms of union-management cooperation prior to the development of any antagonistic relationships. They included conflict-free cooperation that was often based

on the subordination of trade unions to or the unions' 'structural dependence' on management (e.g. Ashwin and Clarke 2003, Ashwin 2007, Gerchikov 1995, Hoffer 1998, Pankow and Kopatko 2001, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997), when it came to the articulation of workers' distinct interests. A specific understanding of 'cooperation' and social partnership in terms of 'conciliation at all costs' implied that conflict and antagonistic attitudes towards management were precluded in the eyes of many union leaders (Ashwin 2004).

Kelly (1996) has noted that non-militant attitudes of trade unions, especially during their revitalisation, can seriously weaken unions by leaving them vulnerable to employers' attacks. Militancy is likely to be a better guarantor of union revitalisation. The danger of moderate attitudes is higher in the post-socialist settings, where the specific understanding of partnership in terms of exclusively moderate relationships has led some authors to argue that social partnership facilitated the survival of unions as powerless and subordinate structures (Ashwin and Clarke 2003, Ashwin 2004, 2007, Borisov and Clarke 2006). Given the legacy of the structural dependence of trade unions under the socialist system of IR, by preserving union-management relations in non-militant forms in the short term (e.g. Clarke and Fairbrother 1994), the partnership approaches may even prevent unions from developing the foundations necessary for building their organisational power prior to the development of cooperative relations. In this sense, moderate attitudes towards management threaten to delay the development of conflict-based forms of worker representation.

Approaches to Conflicts

Amongst member organisations, work-related conflict articulation used to be a specific and distinguishing characteristic of trade unions. Historically, unions have been important vehicles for generating, expressing and structuring workers' grievances (Crowley and Ost 2001, Kelly 1996). Approaches to conflict articulation refer to unions' capacity to collect, visualise, advance and solve members' grievances. The ability to manage conflicts and concessions depends on the quality of financial and organisational resources of unions (Vulchev and Haferkemper 1992). Yet, above all, these abilities presuppose the union leaders' willingness and readiness to raise conflicts.

Under the socialist system of IR, such conflicts could only be articulated, if externalised into bureaucratic channels of arbitration (e.g. Grancelli 1988). More specifically, grievances were sent to the courts. Under post-socialist conditions, the institutional

structure for collective conflict mediation and resolution in the FSU has followed the principles of conflict mediation and reconciliation promoted by the ILO. State mediation and reconciliation bodies that were established throughout 1990s monitored and registered collective disputes and issued recommendations on how to solve conflicts (e.g. Casale 1997b). In this form, the institutional system of conflict resolution similarly provided a legal basis for articulating collective conflicts. It is significant to note that strikes would become legally possible, only after all stages of conflict mediation had been passed through.

In this form, the new institutional structure for collective conflict resolution created an initially unfavourable context for the articulation of conflicts through mobilisation. As Hanke and Mense-Petermann (2001: 132) note,

"[...] even within the institutional frameworks providing channels for conflict articulation, the institutions of conflict regulation cannot be imposed 'from above'. Instead they are being developed on the basis of actors' expectation and perceptions shaped in the past, using the institutional and cultural remnants [...]".

Firstly, conflict mediation is pre-conditioned by the availability of organisationally strong trade unions. However, post-socialist trade unions did not yet possess the necessary organisational strength to make this system function properly. Secondly, in the absence of the effective rule of law and a weak judicial system, the articulation of conflict through arbitration has had little effect. Even when a court would issue a decree in favour of the workers, not all of the court's verdicts would be enforced. In cases, in which workers' complaints were clearly valid, corrupt courts would openly issue verdicts in favour of the employers. When this approach is compared to the process of arbitration, the articulation of conflicts through collective actions is likely to be more effective.

This broader context of historical and post-socialist institutional developments could explain, in part, the continuing reliance of post-socialist trade unions on the externalisation of any conflicts through arbitration and mediation. In the case of workers' grievances, many trade unions tended to suppress more militant approaches towards the articulation of these same grievances amongst workers (Kozina 2009). Concurrently, these approaches towards conflict articulation also explain why the bulk of enterprise-based protests and militant actions emerge as spontaneous (unorganised) actions outside trade unions.

3.5. Conclusion: Interdependencies and Reciprocal Effects in the Co-development of Successor and Independent Trade Unions

This chapter has argued that within the newly installed institutional framework of IR post-Soviet trade unions are in formative processes. In light of the pluralistic institutional framework of IR, trade unions were thus challenged to develop approaches and practices of worker representation based on workers' specific, and potentially diverging, interests. This implies all-embracing changes in terms of union identity, agenda, structure, resources, relations with employers and approaches to work-related conflicts. The scale of the changes required makes it possible to both speak about the processes, which go far beyond union adaptation and to investigate the depth and scale of unions' formative processes.

In order to reflect on the continuities and new institutional developments in the area of worker representation, this chapter developed an approach, which is capable of analysing the development of two specific groups of post-socialist trade unions – the successor trade unions and the newly established independent ones. Such an approach aids reflection on the effect of the time of formation and consequent development of trade unions and on the range of emerging forms of worker representation. Contrary to discussions in the literature which stressed the path-dependent reproduction of one existing path, two different paths of union formation can be distinguished.

On the first path, that of the successor unions of Soviet trade unions, numerous legacies helped shape their formation (e.g. Chen and Sil 2006, Clarke 2005, Crowley 2004, Ost 2006). The discussion above addressed this part of the argument by showing how the development of successor trade unions has been based on the identity of labour collectives, the focus of representation on distributive services, consumerist union-worker relationships, reliance on political resources, cooperative attitudes to employers and more restrained attitudes to conflicts. Given these characteristics, the development of successor trade unions has been path-enforcing. Successor trade unions continue to represent workers in a way that does not infringe on the interests of employers (e.g. Ashwin 2004, Kozina 2001, 2009). As these same legacies have been continually mobilised, they have constrained the formation of conflict-based representation within successor trade unions. As Hensche (1998) has observed, the bureaucratic network of successor trade unions inhibited the process of the development of new union-based forms of action. By indicating the trade unions' orientation towards both workers *and* management, successor union formation re-enforces the absence of differences between the interests of workers and enterprise management: the formation of successor trade

unions has enforced the previous logic of worker representation based on the commonality and conciliation of interests of both workers and employers.

This contrasts with the development of a group of newly established trade unions that have emerged since 1989 out of strikes and protest movements (e.g. Bizyukov 1996, Borisov and Clarke 1996, Crowley 2000, Ledin 2009a, b, Ledin, Agapov and Belogradin 2010). In the case of independent trade unions, their emergence out of concrete conflicts and their origin in the strike movement has affected their subsequent development. Some of the analysis has shown (e.g. Hensche 1998, Kabalina and Komarovsky 1997, Kubicek 2004, 2007, Schneider 1992, Wittkowsky 1995), how independent union formation was shaped by: their identification with hired workers, the focus on conflicts over wages and working conditions, the structure accommodating leaders from the same backgrounds as workers, mobilisation of workers, antagonistic attitudes to employers, and a commitment to generating conflicts. From the path-dependence perspective, these trade unions had pursued 'new' courses of action, because neither interests conflicting with those of the state and enterprise management nor organised and union-led collective actions had been familiar in the Soviet state.²⁶ Given these features of independent trade unions, the logic of worker representation within these unions has differed dramatically from the traditionally practiced common-interest and conciliation-based logic of worker representation. In this regard, these unions' development has been path-breaking; it presents a departure from the previous path.

As shown above, the conceptual differences between the paths of union formation and logics of union-based representation suggest different progressions towards the development of conflict-based forms of worker representation with a stronger orientation to conflicts being maintained so far only through the path-breaking course of union formation as a path departure.

Although the independent trade unions have provided more conflict-oriented forms of worker representation, the question arises as to how far their establishment is able to

²⁶ Although some ad hoc and rare workers' protests took place under socialism as well, previous protest actions never reached the same size and degree as those after 1989. Prior protest mainly involved workers of one particular enterprise that went on strike. They demanded an improvement in their pay and working conditions but did not question the overall governance systems. Once these striking workers' demands were satisfied, strikes dissolved, leaving no organisational legacy afterwards (see e.g. Grancelli (1988) on the strikes within the socialist system of IR). In the case of the miners' strikes of the late 1980s a strike movement uniting workers of many mines emerged, leading to the establishment of independent trade unions. These strike movements began with the economic demands of pay increases and moved to demand the dissolution of the government, thus turning their economic strikes into political ones (e.g. detailed and documented accounts of miners' strikes are published in Crowley (2000), Ledin (2009a, 2009b, Ledin, Agapov and Belogradin 2010). In this sense, the actions conducted by the miners' movements in the late 1980s and early 1990s were unfamiliar within society in those contexts.

help to overcome 'the underdeveloped interest pluralism' (Kurtan 1999) and improve conflict-based worker representation at the level of the institutional system of worker representation. For this, the effect of interaction between those paths, including the potential mechanisms of stabilisation or changes that may come to the forefront during different phases of path formation, are explored.

In the first phase – the organisation phase – different historical and political backgrounds, against which both reformed and newly established unions have emerged, deserve particular attention, focused on the initial formative phase. As the detailed analysis of the two logics of paths due to the conceptual dimensions of union formation has shown, the definition of identities, goals and forms of action of independent trade unions *oppose* those definitions of the reformed trade unions. Organisational successes of independent trade unions are likely to be accompanied by latent, yet immanent, conflict between independent and socialist trade unions.

In Deeg's view of different mechanisms, during this first formative phase, the reciprocal effects of the interaction between trade unions bring to the forefront issues of set-up costs, legitimacy and political influence for both trade unions and would likely be of central importance here in order to understand the mechanisms of institutional change active during this initial phase. While reformed trade unions face serious legitimacy problems during this initial post-socialist phase, independent trade unions gain legitimacy and political influence through their collective actions. This conflict at the level of the dimensions of union formation is strengthened by the effects of the legitimacy problems of successor trade unions, low set-up costs of the establishment and high political influence of independent trade unions. A peaceful co-existence between successor and independent trade unions (co-ordination, cooperation or even adaptation between them) are highly unlikely, as are adaptive expectations. It can be hypothesised that, in this initial phase, the formation of trade union representation in interest-based conflicts was constrained by the latent, and immanent, conflict hidden in the structural and historical differences of two alternative paths of union development.

Secondly, the successive sequences of interactions between reformed and independent trade unions should be analysed, given that actors operate, learn and adjust their strategies. Successes of conflict-based worker representation do not automatically accompany the establishment of a strong independent organisation during the critical juncture. Beyond the material constraints inherent in the external operating

environment of trade unions, further reciprocal effects occurring in the formation of both trade unions deserve special attention.

In face of the path-dependent reproduction of worker representation, stabilisation and further development of independent union organisations is critical to ensure their ability to stay on the new, conflict-based path of worker representation. While newly emerging trade unions have been established from zero, successor trade unions, by contrast, have developed from a base of rich resources that they inherited from socialist trade unions. Set-up costs differ considerably between establishing a new or reforming an existing organisation during this phase and between the formation and operation phase. The environment in which post-socialist trade unions have operated has favoured successor trade unions (Kubicek 2007). Hoffer (1998) has observed that the establishment of new trade unions in Russia, for instance, has been incomparably more difficult, when compared to the establishment of new trade unions in West European countries. These constraints existed exclusively in the case of independent trade unions (Ashwin 1997, Ashwin and Clarke 2003, Borisov and Clarke 2006, Hoffer 1998, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997), leading to increasing set-up costs.

As a further part of their organisational legacy, a strong and important legacy of close relationships to employers and the state that were formed over decades of socialism, provided reformed trade unions political influence (in contrast to the undermined legitimacy). Having access to policy-makers enabled successor trade unions to be strong enough to limit and constrain the opportunities for independent trade unions to construct and develop their organisations in terms of legal regulation and institutionalisation as well as organisational development. Thus, during this operation phase, successor trade unions were able to increase the set-up costs of independent trade unions. In this subsequent phase of the formation of trade unions, the co-existence of reformed and independent trade unions is likely to result in clearly articulated, explicit opposition and conflicts between trade unions. When considered in light of my earlier proposition, which focused on the ideational underpinnings of the two logics of worker representation, in this phase, the redistribution of political influence, in addition to set-up costs, would have significant implications for staying on or departing from the path, contrasting with the primary importance of legitimacy during the formation phase.

Thirdly, the existence of alternatives in the form of independent trade unions was likely an incentive for successor unions to reform. Under the conditions of inter-union competition, successor trade unions have faced the challenge of developing a worker

representation that better addresses work-related interests of workers, especially including work-related conflicts. While in some cases such changes have started to characterise the agenda of successor trade unions (e.g. Mandel 2004), it is not clear to what extent such changes indicate the progress of reforms in general or remain exceptions. A detailed analysis of the co-development of independent and successor trade unions is needed in order to investigate to what extent inter-union competition provides the impetus for processes of change within the reformed trade unions. As they present external pressures for change, inter-union competition and the development of more conflict-oriented approaches, independent trade unions are more likely to be the most significant factor pressuring successor trade unions to develop more conflict-oriented forms of worker representation. Coordination, learning and adaptation of expectations may become helpful mechanisms that could explain institutional change along existing paths in this consolidation phase.

Chapter 4. The State of Industrial Relations in Ukraine

The present chapter provides a brief overview of the economic, political and social developments in Ukraine since its independence in 1991. It is followed by a review of the institutional rearrangement of IR, including the re-regulation of union activities. Finally, general union developments are outlined in the concluding section.

4.1. The Political and Socio-Economic Situation

Ukraine declared its independence in 1991. During the first years of independence, the Ukrainian government was pre-occupied with nation-building.²⁷ During this period, little thought was devoted to economic reforms. The presidency of the first Ukrainian president Leonid Kravchuk (formerly the Second Secretary of the Communist Party) ended swiftly due to a steep economic decline accompanied by a devastating rate of hyperinflation, reaching more than 10,000% in 1993 (Aslund 2003). Under the pressure of the 1994 miners' strikes, early presidential elections were organised that same year.

The newly-elected President Leonid Kuchma undertook substantial economic reforms, which liberalised the Ukrainian economy. The anticipated reforms included a standard program of IMF and World Bank reforms such as marketisation, liberalisation, stabilisation and fast-paced privatisation (e.g. Aslund 2002, van der Hoeven 1994, Stiglitz 2002). During Kuchma's presidency, newly emerging political and economic elites, formed prevalently from former nomenklatura members, started to emerge. Through lobbying and the direct representation of economic interests in Parliament (Pleines 2006, Zimmer 2004) these same elites soon acquired strong positions in both economic and political areas. Operating in non-transparent ownership structures and relationships, these business elites came to be identified as oligarchs²⁸ and financial-industrial groups²⁹ (Kowall and Zimmer 2002, Zimmer 2004). Oligarchic groups have their representatives in each of the political parties present in Parliament (Zimmer

²⁷ Although the new constitution of Ukraine was finally adopted in 1996, the adoption of that constitution has not brought the Ukrainian nation-building project to an end. Constitutional debates about the continuous circulation of authority between president and prime minister and the rules governing elections are still on-going in Ukraine today, leading to political instability in the country.

²⁸ The term "oligarchs" refers to different economic actors who obtained economic and political power and gained political decision-making influence under Yel'tsyn in Russia (Kowall and Zimmer 2002) and under the presidencies of Kravchuk and Kuchma in Ukraine throughout the 1990s.

²⁹ These groups initially accumulated significant volumes of financial capital from the gas trade. This money was further channelled into other branches, such as metal processing, coal mining, energy, banks, food processing and media. Financial industrial groups develop vertically integrated structures along these value chains (Zimmer 2004).

2004).³⁰ This tight overlapping of economic and political interests and elites led to blocking of the planned economic reforms (e.g. Pleines 2006, 2008). Instead, reforms which served the profit- and power-oriented needs of the elite members were actively promoted, meaning that many decrees were adopted that granted the oligarchs tax exemptions, subsidies and trade privileges. These reforms exacerbated the economic problems of Ukraine. Indeed, “Ukraine is the only transition country to have known nine consecutive years of economic decline” since 1991 (van Zon 2002).

The first signs of economic growth appeared in 2000 (Merkel 2008) when the Ukrainian economy was further de-regulated and the preferential treatment of oligarchs was reduced under the government of Yushenko and Tymoshenko (Aslund 2003). Despite this government being displaced by 2001 by the ‘oligarchs’ and further economic reforms coming to a halt, Ukraine still boasted the highest performance in Europe in 2003 and 2004, with growth of 15.8% and 12.5% respectively (Chernyshev 2006). However, by the time growth arrived, unemployment had skyrocketed. Alongside an employment level drop of 40% in industry and agriculture, official employment levels declined by one-third before 1999 (ibid).

Corrupt and rent-driven policy-making was interrupted by the mass protest of 2004 known as the ‘Orange Revolution’. Provoked by fraudulent election practices during the 2004 presidential elections, these protests resulted in the election of Yushenko as the President of Ukraine. The election of Yushenko marked a significant shift in power. Whereas Yushenko’s presidency allowed for more freedoms of expression, his term in office has been consistently criticised for his inability to overcome intra-governmental cleavages³¹ and stabilise the socio-economic development of Ukraine (e.g. Bertelsmann Stiftung 2012). The slight economic growth of recent years was deflated by the global financial crisis of 2009, when the Ukrainian economy declined again.

As a result of these developments, Ukraine has developed politically as something between a democracy and an autocracy (Franzen, Haarland and Niessen 2005) and economically as an ‘oligarchy’, dominated by power- and profit-driven interests (Kowall

³⁰ The words of the then Head of the Tax Administration (cited in Zimmer 2006: 290) are demonstrative of these developments. In April 2002, 364 out of 450 deputies in the Ukrainian Parliament were directly or indirectly “connected with commercial structures. 202 deputies were simultaneously leading executives of enterprises, and 473 enterprises had been established by deputies”. About two-thirds of the deputies were US dollar-millionaires (Aslund 2005: 49 in Zimmer 2006: 290, Verednykova 2005).

³¹ Since 2005, most Ukrainian governments have suffered from internal disunity and constant competition for power. As a result of these conflicts, Parliamentary elections were held yearly. After the elections in 2006, Parliament was dissolved by presidential decree in 2007. But, the parliament did not accept the dissolution and continued its work until the situation deteriorated after two months of confrontation and the law enforcement bodies became involved. The newly elected 2007 Parliament was dissolved again in 2008, although the elections had to be postponed due to the financial crisis (see Bertelsmann Stiftung 2012).

and Zimmer 2002). Until Yushenko's presidency, serious civil rights violations occurred frequently in Ukraine including murders, attacks and the intimidation of journalists, members of the political opposition and independent trade unions. After the Orange Revolution the harassment and civil rights violations became less pronounced. With the 2010 election of Viktor Yanukovich (who had been Yushenko's rival candidate during the 2005 presidential elections) as President of Ukraine, authoritarian traditions started to re-appear in Ukraine (Tkachuk 2011), including the prosecution and criminal investigations of members of the political opposition, journalists and independent trade unions.

Privatisation in Ukraine

Starting in 1992, privatisation commenced before the legal preconditions for it had been put in place. In 1994 the first stage of privatisation was conceptualised as a voucher privatisation (1994-1997) and 'mass privatisation' programmes (1998). Shares of enterprises were distributed among workers, so that highly dispersed employee ownership structures emerged. Basically, while formal ownership was altered, actual ownership remained largely undisturbed. A high degree of ownership dispersion left workers with no influence over enterprise affairs in spite of their official ownership status. In addition, workers lacked any understanding of shareholding practices. The only way to have any influence would be to organise. Trade unions did not initially mobilise workers around the issues of ownership. In overseeing the privatisation of enterprises, managers sought to buy out workers' shares, sometimes using coercive practices. Managers were thus able to consolidate their personal ownership of enterprises.

Since the beginning of the year 2000 privatisation included the ad hoc actions of ownership changes, which resembled 'the processes of assets redistribution that were outside the control of the society' (Dubrovsky, Paskhaver, Verkhovodova et al. 2007). The most attractive assets were privatised, often outside the legally set procedures, bought for artificially low prices by business and financial-industrial groups that were close to political authorities (ibid, Bertelsmann Stiftung 2012).³² Even though three-fourths of the economy was claimed to be private in 2001, these estimates included enterprises in which the state had retained its share (Franzen, Haarland and Niessen 2005). As of 2005, 78.3% of all units were claimed to be private, employing 73.8% of the total workforce (Annual Statistics of Ukraine 2005, cited in Dubrovsky, Paskhaver,

³² The sale of Kryvorizhstal, a huge steel mill, which provides a significant share of Ukraine's exports, for one-sixth of its real value is the most famous example of this. As an act of political will, Kryvorizhstal was re-privatised in 2005 and sold to a foreign investor (MittalSteel), but such cases of re-privatisation were not an everyday political practice (e.g. Kyiv Post, 17 February 2005, 24 August 2006).

Verkhovodova et al. 2007). However, the state and communal authorities still retained 54.8% of all assets (ibid), mostly comprised of huge strategic enterprises.

Social Security

The living conditions of the Ukrainian population have deteriorated enormously. In spite of hyperinflation³³ the indexation of wages ceased between 1992 and 1997,³⁴ leading to a significant fall in workers' real wages. In harsh economic conditions enterprises were legally allowed to cease the payment of wages, so that workers' earnings ended up becoming wage arrears. Even after the wage freeze was abolished, both insolvent and economically active enterprises continued to accumulate wage debts. Wage increases driven by improved economic performance still left one fourth of the population below the poverty line in 2004 (Chernyshev 2006).

Even though the government regulated wages through a legally set minimum wage, this minimum wage has continuingly remained below the legally set subsistence minimum.³⁵ Only in October 2009 was the minimum wage set higher than the subsistence minimum. However, this was only due to deflation, which led to a reduction of the real value of the subsistence minimum, while minimum wages remained below the official poverty line (FPU 2009, interview with Kondratyuk, FPU Vice-President). As of July 2011, the statutory minimum wage amounted to UAH 960 (the equivalent of approximately 85 Euros) (Verkhovna Rada of Ukraine 2011).

The social security system literally dissolved. According to the People's Security Survey of the International Labour Organisation and the State Statistics Committee of Ukraine, in 2003 the per capita monthly income amounted to less than \$100, 40% of wage earners suffered from unpaid wages, over two-thirds were dissatisfied with their wages and about 85% of adults could not cover their healthcare needs. Social and welfare policies were needed to cushion the decline in Ukrainian living standards. Yet, as a result of the economic decline, social spending was reduced drastically (Mandel 2004).

³³ A devastating rate of hyperinflation which reached more than 10,000% in 1993 (Aslund 2003).

³⁴ According to the law on the temporary halt of income indexation 7-92, dated of 9 December 1992.

³⁵ 'Subsistence minimum' is calculated by the governments of countries, based on the price calculated to purchase a certain set basket of goods necessary for each member of the population to insure his/her subsistence. Depending on the subsistence minimum, the poverty rate is then calculated annually as a percentage of the population living below an officially established subsistence level.

4.2. Institutional Structure of IR in Ukraine

As Soviet laws and regulations were liberalised through the introduction of freedoms of association, bargaining and the right to strike, many of them continued to serve as the basis for IR regulation in the post-socialist Ukraine. Yet, some newly installed laws and institutions partially replaced the previously existing regulations. Additionally, the economic reform programmes of the IMF and World Bank pushed for more de-regulation of IR. As a result of this rearrangement, the institutional infrastructure constitutes a mixture of the institutional structures that have developed historically as well as those that were installed as exogenous.

The Legacy of the Socialist Institutional Structure of IR

Socialist states were claimed to be ‘workers’ states’ and socialist systems of IR were founded on the unity of the interests of workers, enterprise administrations and the Communist Party. This has had significant implications for the present institutional context.

Firstly, in the ‘workers’ state’, worker representation was the unilateral responsibility of the state (e.g. Brown 1966, Ruble 1981). Soviet IR systems were subject to the most detailed legal and administrative regulations covering working hours, working conditions, workers’ benefits and basic guarantees. These legal measures were, however, not designed first and foremost for the purposes of granting independent worker representation, as workers were meant to be represented through the party governing the Soviet states. Instead, in practice, these same legal measures aimed to increase workers’ productivity and, in part, to strengthen labour discipline (Ashwin and Clarke 2003).

Under the new institutional structure of IR this perception of the state as a guarantor for worker representation made enforcing workers’ rights through their own militant activity and offensive demands problematic. Workers became accustomed to addressing their problems directly to the president or other authorities, and continue to do so today. Less than ten per cent of workers would go to unions in cases of labour rights violations (UCEPS 2001). Consequently, workers do not actively demand improvements in their living and working standards by exercising their rights. Instead, workers wait for the state to provide such improvements.

Secondly, the system of socialist IR was organised around ‘labour collectives’: the aggregate of all enterprise personnel, including managerial, technical and administrative

staff (Teague 1986). The Council of the Labour Collective (STK) envisaged worker input into the way production was forged and management controlled, but not into the co-determination of their working conditions and pay. From the perspective of independent worker representation, the power of work collectives was consultative and advisory in nature, as the law did not include any workers' rights enforcement mechanisms (ibid). As a consequence, STK remained subservient to managers and fulfilled the same distributive functions as trade unions did: "Whereas trade unions used to distribute bananas and cigarettes, STK distributed cars" (Tretyakov, the president of the Independent Miners' Union of Sukha Balka, interview III). Furthermore, in 1990 decision-making power was taken away from the labour collective (Krüger 1990),³⁶ the institution of labour collectives as such remained and its purpose and meaning continued to be supported in the present institutional practice.³⁷ For instance, employers' paternalistic, social functions, which were common under the socialist system of IR, continue to be envisaged by law (e.g. employers have to provide funds to unions for workers' recreation, sports and cultural activities). As a consequence, within labour collectives workers saw their enterprise management as the representative of their interests and did not try to develop such independent representation by exercising their extensive rights, as provided for by law (Ashwin 1999a, b).

Thirdly, trade unions were a part of the state governing apparatus, when they merged with the Soviet Labour Ministry in the 1930s (interview I with Ditkovsky, ITU President at the Kyiv Metro; Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). Under the socialist system of IR trade unions were given the role of developing productivity and overseeing labour discipline. As extensive veto powers, such as the approval for worker dismissal and lay-offs and the right to sanction management, were allocated to trade unions, the institutional framework of IR in Ukraine has historically been generously supportive of workers and trade unions (see section 4.2.1.). However, the comprehensive regulation of every aspect of work implicitly excluded the voluntary regulation of work through trade unions and their negotiations with employers (Ashwin and Clarke 2003). Additionally, Soviet labour law did not contain any provisions for collective action and independent collective organisation of workers. Instead, it limited the articulation of conflicts to individual conflicts only and to bureaucratic arbitration.

³⁶ According to the Decree of the Cabinet of Ministers of Ukraine Nr. 8-92, dated 15 December 1992, workers' rights to control and elect management were curtailed and labour collectives' rights to set managers' employment conditions abolished.

³⁷ For example, votes of the labour collective meeting are required in order to delegate the authority to negotiate the collective agreements to a trade union. Collective agreements and negotiations are to be conducted by labour collective representatives in those enterprises, which do not have established trade unions.

The Impact of the External Factors on the Present Institutional Structure of IR

The regulation of IR in Ukraine was weakened (see section 4.2.1.) when labour markets started to be de-regulated under the pressure of the International Financial Institutions. As a part of this de-regulation, the labour market of Ukraine faced a diversification of employment forms and relationships. In contrast to the full-time employment of indefinite duration common across the FSU, in Ukraine, for example, self-employment, employment by small entrepreneurs and informal employment has appeared (e.g. Cazes and Nesporova 2003). Previously and presently, the scope of labour legislation has been restricted to labour employed on a contract basis (van den Berg 1992) to be enacted through workers' membership in trade unions. Hence, the traditional labour law does not capture the newly emerging forms of work; their regulation remains either under civic law, which provides no worker protection, or is left to the employers' discretion. Also, these new forms of work have found little relevance with trade unions (e.g. Webster, Bischoff, Xhafa et al. 2008).

Further external factors impacting the formation of the institutional framework of IR include the installation of the tripartite framework of social partnership as well as of collective bargaining and conflict resolution infrastructure, based on the labour standards of the ILO (e.g. Casale 1997b, 1999, Hethy 1994b).³⁸ Both sets of institutions replaced the previously existing regulations (see sections 4.2.2. and 4.2.3.). Trade unions received extensive rights going far beyond their historic veto rights. First, trade unions could now voluntarily regulate some aspects of IR through their negotiations with employers. Secondly, an infrastructure for the articulation of the conflicts of interests was installed, so that it became possible for trade unions to raise workers' issues and negotiate over them, which could potentially be in conflict with those of enterprise management.

The following table (Table 3) gives a general overview of the most significant legal and institutional developments that have taken place in Ukraine since the early 1990s.

³⁸ Throughout the 1990s and particularly since the beginning of the 2000s the ILO has assisted the Ukrainian government in preparing drafts of the Labour Code and Social Dialogue Law and in establishing an institutional framework for social dialogue (see projects "Promoting fundamental principles and rights at work" and "Consolidating the legal and institutional foundations of social dialogue in Ukraine" funded by the German Government (United Nations 2009).

Table 3. Legal and institutional developments in the area of IR in Ukraine

Nr.	Year	Law	Major points	Remarks & Amendments
1	1991	Law On Employment	Sets a tripartite coordinating Committee on Employment Promotion.	
2	1991	Law on Indexation of Money Incomes of the Population	Grants trade unions the right to control the indexation of money incomes.	
3	1992	Law on Work Safety	Grants trade unions the rights to control health and safety issues in the workplace.	
4	1993	Presidential Decree on the Establishment of the National Council of Social Partnership	Sets the tripartite bodies on the national, sectoral and regional levels. Defines the Council's functions: negotiation, conflict prevention.	
5	1993	Law on Collective Agreements and Contracts	Regulates the coverage of collective agreements, parties and their responsibilities, negotiations, disagreements, procedure of signing collective agreements, etc.	A part of the international Conventions of the ILO were integrated into Ukrainian legislation.
6	1995	Law on Work Remuneration	Specifies union rights in the area of work remuneration, procedure of establishment and review of minimum wages.	
7	1996	Constitution of Ukraine	Establishes the right to join trade unions, recognised the principles of interest pluralism. Recognised trade unions as public organisations.	
8	1998	Law on Collective Disputes and Conflicts	Establishes long-term bureaucratic solution procedures. Strikes outside of mediation procedures were made illegal.	A part of the international Conventions of the ILO were integrated into Ukrainian legislation.
9	1999	Law on Trade Unions, their Rights and Guarantees of their Activities	Sets pluralist principles as the fundamentals for the development of the union movement. Defines trade unions as organisations representing and protecting	2000 – some provisions of the law were recognised by the Constitutional Court as illegal as they discriminated against all

			<p>workers.</p> <p>Recognises that trade unions are not state structures and are in opposition to employers and the state (de-statisation of trade unions).</p> <p>Replaces the union centralised governance structure with a federal one.</p> <p>Determines the scope of functions, forms and methods of union work.</p> <p>Sets the principles of social partnership to regulate the interactions between trade unions, employers and the state.</p>	newly established trade unions.
10	2001	Law on Employers' Organisations	Defines the functions of employers' organisations.	
11	2003	Draft of the Labour Code submitted to the Parliament	<p>De-regulates IR (section 4.2.1.)</p> <p>Diminishes the role of trade unions in the IR.</p>	<p>ILO's assistance in drafting the Code.</p> <p>ILO's negative expertise due to the non-compliance of the Labour Code provisions with International Labour Standards.</p>
	2008	Adopted during its first reading in the Ukrainian Parliament		
	2009	Adopted during its second reading		
12	2009	President's Decree on the Establishment of the National Tripartite Socio-Economic Council	Reforms the existing Council of Social Partnership into the National Tripartite Socio-Economic Council.	
13	2010	The Law on Social Dialogue in Ukraine	Defines the representation criteria for participation in social dialogue and collective bargaining for trade unions at different levels.	<p>Violates ILO Conventions ratified in Ukraine.</p> <p>Excludes newly established trade unions from social dialogue and collective bargaining.</p> <p>Restricts union pluralism (ITUC 2011).</p>

4.2.1. Labour Code

The most central piece of Ukrainian labour legislation has been the Soviet Labour Code adopted in 1971. According to this code, workers' representation is realised through a number of specific veto rights (e.g. approval of dismissals, the use of overtime) granted to enterprise trade union committees (van den Berg 1992). Initial amendments to the Labour Code in the early 1990s did not go beyond formal and superficial changes. A more intensive, deeper revision process has been ongoing since 2003 and was summarised in the new draft submitted to Parliament by the former president of the successor FPU. Mr. Vasyl' Khara, the former president of FPU, Mr. Olexandr Stoyan, and a Member of Parliament, Mr. Sukhyi (Horbach 2008). This draft passed its first and second readings in 2008 and 2009. However, as a result of opposition by some trade unions (being themselves represented in the parliament), this code was not adopted by Parliament right away.

Once adopted, the new labour code will deregulate workers' rights and weaken the position of both workers and trade unions (Horbach 2008, Gudiy 2011, KVPU 2008, 2009a, b). Working days will be prolonged to 10 hours, compared to the current 8 hours. Trade unions' protective capacity in case of dismissals will be constrained: employers will only have to give two weeks dismissal notice as opposed to the current two months; they will no longer require union approval for dismissal; and they will be allowed to regulate enterprise-based IR by means of their own internal provisions. Claims against an employee will only be investigated by the employer (and no longer jointly with trade unions) and employers will no longer be obliged to sign collective agreements or report on their implementation. The code does not include any provisions, which define the enforcement mechanisms of collective bargaining and agreements. Disputes related to the implementation of collective agreements can no longer be taken to labour courts and will now be referred to the contractual parties instead. In a similar manner, employers will no longer be obliged to provide unions with offices and the check-off system of union membership dues will also be abolished.

4.2.2. Collective Bargaining

In the Soviet Union collective bargaining was addressed as "an economic-political measure to mobilise workers and officials around the successful fulfilment and over-fulfilment of the people's economic plan" (Council of Ministers of the USSR, 6 March 1966). Hence, collective bargaining was aimed at regulating production and

productivity. In this form, collective agreements did not serve as IR regulating mechanisms in terms of wages and working conditions (Ashwin and Clarke 2003).

In 1993 the new Collective Agreements Law abolished this old mechanism of work regulation, when the law incorporated many ILO conventions and recommendations. In formal terms, the core principle of Soviet IR – the commonality of employers’ and workers’ interests – was abandoned. As a result, a mechanism for wage setting was established through the Law on Work Remuneration in 1995 opening up possibilities for voluntary regulation of work-related issues by trade unions and employers. Both laws envisage negotiation of skill-grade coefficients. Trade unions can negotiate wage increases through the introduction of sector- and enterprise-based scales and coefficients above those that are legally set. Furthermore, trade unions continued to regulate the issues of wages and worker conditions through union-government regulations by setting the wage scales in the General Agreement with the government (e.g. Borisov and Clarke 2006).

Importantly, the collective bargaining law has established new pre-conditions for union pluralism. The law states that all trade unions existing at a given enterprise have the right to collective bargaining. If more than one union exists at an enterprise, trade unions are supposed to establish a joint representation body, which then negotiates with the employer.

In spite of the growing number of collective agreements, the role of negotiation practices has remained quite minimal. Firstly, trade unions have displayed low degrees of responsibility for the negotiation and enforcement of collective agreements. The Ukrainian Federation of Trade Unions (FPU) alone unites around 120,000 primary organisations. As of 2007 the total number of signed collective agreements was only 95,781, with almost half of those collective agreements being in state administration (the highest number of agreements by sector), education, health and social assistance sectors (State Statistics Committee of Ukraine 2008). Collective agreements cover 82.4% of payroll workers, but hardly extend to the increasing number of workers, who are not on a payroll (ibid). Also, employers’ additional expenses caused by collective agreements amounted in the same year to only Hr 283 per year (the equivalent of about 20 Euro) per worker. Upon closer examination, it appears that collective agreements mainly restate legal provisions, as in 70.8% of collective agreements the wage scales are the same as stipulated by law; indeed, in only 26.6% of agreements are wages higher (ibid). Incredibly, 2.6% of agreements set the tariff coefficient at a lower rate than stipulated by

law and 5.6% of agreements envisage lower tariff coefficients than those of the Sectoral Agreement (ibid).

In addition, according to official estimates, compliance with collective agreements averages 94-96% (ibid). In stark contrast, according to the Chief State Labour Inspector, Ihor Sumovs'ky, whose job was to supervise the implementation of labour legislation, violations are detected in 90-95% of audited enterprises, prevalently in the area of pay (Sumovs'ky, State Chief Labour Inspector of Ukraine, interview). As this data demonstrates, collective bargaining has been ineffective in the bulk of cases.

4.2.3. Collective Labour Disputes and Settlement Procedures

Institutions that deal with the settlement of collective disputes have only existed in Ukraine since 1998. The Law on the Settlement of Collective Labour Disputes sets the procedures for conciliation between employer and trade union. It advocates an attempt at conciliation amongst themselves as the first step of the settlement procedure. If this fails, the disputes then go through labour arbitration and mediation processes, the last resort being seeking assistance from the National Service of Mediation and Reconciliation (NSMR). The latter is responsible for the registration of disputes and dispute mediation and it issues non-binding recommendations on how to solve disputes.

Only when the dispute's parties have completed all mediation and conciliation procedures at all stages can strikes and protests be legally declared. The time necessary for all procedures to be fulfilled before a strike is considered legal can take up to several months. The decision to strike should be supported by the majority of workers, or by two-thirds of the labour collective conference. If these steps are not followed, strikes are treated as illegal. Thus, the legislative regulation of labour disputes can contain them through long drawn-out judicial procedures rather than through collective organisation and mobilization. In terms of union formation, it deprives unions of the possibilities to develop their organisational strength from the capacity to mobilise members.

This kind of regulation refers back to the framework of social partnership in Ukraine, as advocated by the ILO. In this specific context it should be noted that policy processes that are based exclusively on consensus making certainly facilitate stable policymaking. However, in specific settings common in Ukraine and the FSU (the lack of the rule of law and the corrupt and non-functioning arbitration system) strong emphasis on consensus-making, as reflected in the institutional and regulatory framework for collective actions, creates significant obstacles to the development of workers' and unions' capacity for

collective action. These types of processes ensure that collective action is less probable (e.g. Ponomarchuk, the Vice-President of the Donetsk Oblast Council of CBMI, interview), particularly at a time, when militant action has the greatest chance of being effective. In particular, these conciliation and arbitration procedures present obstacles for the activities of independent trade unions (Akimochkin, KVPU's and NPGU's vice-president, interview). Many independent unions emerge during escalating conflicts at the enterprise level. In this sense, the only way to solve a conflict in favour of workers is to mobilise them. However, this is precisely the strategy that the above-mentioned law structurally limits.

4.2.4. The Regulation of Union Activities

The institutional preconditions for union pluralism and union activities in Ukraine were not fully formed until 1999, when the Law on Trade Unions, Their Rights and Guarantees of Their Activities was adopted. This law then recognised trade unions as voluntary workers' associations established to protect their labour and socio-economic rights. Unlike the previous law, which had regulated the activities of only one existing trade union, the law of 1999 enshrined in it the principles of pluralism of trade union representation.

In spite of the fact that the trade union law is new, i.e. not based on socialist laws, Ukrainian law still enshrined the traditional union role of social agent. According to the law of 1999, employers must provide at least 0.3% of wage funds to unions for the organisation of cultural and sports activities for workers. Some unions have focused on increasing this amount to 1% through collective bargaining (Krychkevych, the DBK-4 RUC president, interview). The provision of this money to unions has a benefit to employers in the form of a tax deduction (Konstantinov, Stal'konstruktsiya RUC vice-president, interview). This legal provision thus raises important questions about trade union autonomy and independence. Lacking an active base, union organisations find themselves in a difficult situation, whereby a share of their resources is legally provided by those they may oppose, namely, by the employers. Action against employers is less likely in such cases, as employers are able to threaten to withhold union resources.

The Law on Trade Unions itself became an arena of contestation, to which the fundamental conflict over trade union pluralism was transferred. Firstly, according to that law, unions needed to be registered with the justice authorities, yet their application could be rejected, if the authorities so wished. The requirement to register

offered reformed trade unions a mechanism to preserve their status quo, because the leaders of reformed trade unions could use their historic close contacts with ministry officials. By contrast, independent trade unions were often denied registration of their organisations (Stegura, KVPU lawyer, interview). In the second instance, the Ukrainian law stipulated that in order to be recognised as a sectoral union, trade unions had to organise the majority of employees in a certain sector. By demanding membership of over 50% of the sector's employees, such provisions excluded union pluralism within the same sector. This requirement favoured reformed unions, which had inherited the membership of Soviet trade unions and which traditionally represented more than half of the workforce in most cases. Thus, the Ukrainian law originally contained restrictions on the activities of newly established trade unions. Following the initiative of the Independent Miners' Union of Ukraine (NPGU) together with the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), the registration and membership threshold provisions were later declared unconstitutional by the Supreme Court (Supreme Court of Ukraine 2000).

The institutional restriction of union pluralism was taken further with submission of the Bill on Social Dialogue in March 2009. The bill was submitted by the successor FPU. Similar to the Trade Union Law, this law demands that trade unions register with the local authorities and sets restrictively high thresholds for enabling unions to participate in enterprise, sectoral or national bargaining and social dialogue. While these thresholds can easily be met by the successor trade unions, as they have inherited their membership, newly established unions, however, cannot meet these thresholds. The newly established KVPU has claimed that this law is an attempt by the FPU "to destroy KVPU and our member unions and establish [...] a trade union monopoly" (KVPU 2009b; Volynets, KVPU President, interview); as a result, the law grants successor trade unions an exclusive right to represent workers, by excluding almost all newly established trade unions and worker organisations from IR arenas.

4.3. Trade Unionism in Ukraine

With the installation of the new institutional structure of IR in Ukraine, the formally anticipated role and functions of trade unions have changed significantly. Under socialism, trade unions acted not as interest groups, but as part of the broader system of party control in the form of "transmission belts" (e.g. Ashwin and Clarke 2003, Brown 1966, Clarke 2005, Kubicek 2004, Ruble 1981, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). Trade unions were structurally subordinated to the Communist Party. They

‘transmitted’ the directives of the party to workers (Brown 1966, Lenin 1920, Ruble 1981). Also, their power and legitimacy were granted by the party and trade union membership was automatic. Socialist trade unions were assigned the functions of increasing productivity, ensuring labour discipline, protecting individual workers in cases of legal violations and distributing social and welfare benefits. Instead of receiving wage increases, workers received vouchers for discounted holidays, presents, scarce goods workers could not buy in stores and financial assistance. Essentially, these functions helped to bring unions closer to enterprise management. During the post-socialist transformation this “link between the management and unions has become much clearer” (Kubicek 2004: 25).

This legacy has had enduring implications for the emergence of conflict-based collective representation since socialism collapsed. Firstly, workers continued to contact trade unions, mainly for their social and welfare interests (e.g. UCEPS 2001). Secondly, by promoting exclusively consumption-like union-worker relationships, trade unions continued to act as entities external to workers in terms of collective identity, structure and action. This “alienated collectivism” has been common under the socialist system of IR (Ashwin 1996, 1999: 249):

“The collectivity of the labour collective can be defined as alienated, in the sense that workers related to the collective as something standing outside of and opposed to themselves: it was neither perceived, nor realised as the product of the collective organisation of individual workers [...]”.

At the same time even rare attempts to establish collective organisation of individual workers were not permitted under socialism, as the Party believed that collective identity, structure and action were already organisationally represented through trade unions and labour collectives. Any attempts to create free or independent trade unions under socialism were thus short-lived (e.g. Grancelli 1988). Workers initiating any such activities were immediately subjected to harsh repressions.³⁹ All attempts to establish collective organisation of individual workers, therefore, took place outside the structures of existing official trade unions.

When increasing signs of worker activity appeared in the late 1980s, miners’ strikes took place in Ukraine in a spontaneous, unorganised and unauthorised manner. The organisations that arose out of these strikes were initially identified as strike committees, because no law on trade union pluralism and strikes existed at that point. The committees later developed into independent trade unions (e.g. Ledin 2009a, b,

³⁹ For example, in 1968, workers’ protests demanding a freeze on meat prices were put down by order of the government. After the well-known, tragic harassment of one particularly persistent union activist named Khlebanov, all attempts to establish free unions were crushed in spite of appeals to the ILO and the International Federation of Trade Unions (Grancelli 1988).

Ledin, Agapov and Belogradin 2010). This was the first significant split under the Soviet model of monolithic unionism.

After the socialist system collapsed, some reorganisation processes started within both former official and independent trade unions. During the course of union (re)organisation processes in Ukraine, several associations of workers' unions were established through the separation of some unions from the former official FPU and the expansion of newly established trade unions (e.g. Borisov and Clarke 2006, UCEPS 2001, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). Official trade unions declared their autonomy and independence from the Communist Party, but these successor trade unions were criticised for a lack of in-depth reforms (e.g. Kubicek 2007) necessary to develop the required capacities for successful independent worker representation. Meanwhile, newly established and independent trade unions grew their organisations. Significant differences have characterised the formation and characteristics of these groups of trade unions. Prior to illustrating these differences in greater detail, it is useful to have an overview of the historical development of coverage and the general scope of union activities in Ukraine.

4.3.1. Historic Context: The Development of Union Social vs. Protective Functions

The early evolution of trade unions in Ukraine⁴⁰ corresponded to the broader evolutionary processes of trade unions across Europe. Importantly, some Ukrainian provinces in the west were part of the Austro-Hungarian and later Polish empires. Here, trade unions initially emerged in the late 18th century as mutual assistance organisations that mainly provided a type of basic social insurance. Following a law in 1867 which established the protective rights of occupational workers' associations in the Austro-Hungarian Empire and further labour laws that were codified in the early 1920s by the Polish Empire, the obligatory insurance that had previously been provided by trade unions was legislated into a system that functioned independently of the unions. This led to a functional differentiation of trade unions as protective organisations of workers as opposed to assistance associations, the original model upon which trade unions had initially emerged.

By contrast, the more authoritarian regime of the Russian Empire to which the rest of Ukraine belonged, was less conducive to this kind of evolution of the structures of union functions. As a result of the equivalent legislative attempts to establish a system of social

⁴⁰ Unless otherwise specified, both this section and the subsequent section are based on the history of Soviet and Ukrainian trade unions published by Vyshnevs'ky, Mishenko, Pivnyev et al. (1997).

insurance in 1912 in the Russian Empire, the social functions of unions were strengthened. Notably, in the regions ruled by an authoritarian regime, trade unions only spread to the area three decades later than in the rest of Ukraine. Following the overthrow of the monarchy, the All-Ukrainian Central Council of Trade Unions was established and proclaimed its independence in 1918. Shortly after its establishment, the Council's leadership was repressively replaced by the Bolsheviks, who governed Russia after the removal of the Tsar. The Council itself was reformed into the southern office of the All-Russian Central Council of Trade Unions (VTsRPS). Trade unions themselves were reorganised in line with the principles of 'democratic centralism', which enabled the establishment of the VTsRPS' control over lower-level union organisations.

The ongoing installation of socialism during the early 1920s increasingly constrained and limited the potential conflicts of interests between workers and enterprise administration and the Party-state. In 1920, Lenin defined the new role for the trade unions under the communist system of governance in terms of 'transmission belts' (Lenin 1920). The role of 'transmission belts' presupposed the unions' role as tools for ensuring that the wishes of the central planners were fulfilled at the enterprise-based level (e.g. Herod 2003). For instance, the main responsibilities of the union became building support for enterprise administration and the provision of 'strike breakers' in cases of strikes.

The unions' protective functions continued to diminish drastically in this part of Ukraine in the late 1920s and early 1930s under Stalin's repressive regime. By 1932, the elimination of non-obedient union leaders was completed by means of repression and harassment.⁴¹ Stalin abolished the Ukrainian office of the VTsRPS and the Council of the VTsRPS was installed in place of the Ukrainian office.⁴² The day before the abolition of the Ukrainian office of the VTsRPS, the VTsRPS itself was merged with the People's Commissariat of Labour (the equivalent of the Labour Ministry) by state decree. The state also transferred sanatoria and holiday establishments (that had previously been owned by the social insurance fund) over to the management of trade unions. As a result of this merger, trade unions took over the functions and assignments of the People's

⁴¹ Vyshnevs'ky et al. (1997) cite an example where, as a result of Stalin's repression, the inhabitants of 24 apartments of a railway-owned, 42-apartment building were imprisoned and later killed en masse.

⁴² The All-Ukrainian Central Council of Trade Unions was only reinstated in 1948. The reinstatement of the 'Council' was only formal. This is proven by the fact that the first congress of these trade unions only took place in 1958 – twenty-six years after the previous congress of trade unions.

Commissariat of Labour, including its social insurance functions. Thus, by 1933, the process of the 'statisation' of Ukrainian trade unions was complete.

When both parts of Ukraine (the one that had been previously controlled by the Polish Empire and the one that was controlled by the Soviet regime) were united in 1939 under Soviet governance, all remaining leaders were replaced by appointees of the Communist Party. There was no one left to advance the ideology of independent union representation, as it had been previously known (Buketov 1999). Under Stalin's dictatorship, trade unions were additionally assigned the functions of control and discipline. Their tasks included basic attendance monitoring at the workplace. To this end, trade unions were given the responsibility to enforce discipline and punish workers for any violations. Unions at the time supported the adoption of several additional laws that further diminished workers' freedoms,⁴³ thus strengthening their capacity to control workers.

The 'statisation' of trade unions, as expressed in the merger of unions with state organs, abruptly interrupted the evolving functional differentiation of trade unions: on the one hand, the development of their protective functions in the formerly Polish owned part of Ukraine, and on the other, the 1918 installation of independent trade unions in the post-Tsarist Ukraine. In contrast to any protective function, by the end-1930s trade unions had been turned into administrative organs of the state with functions that were completely opposite to those of conventional trade unions; as part of the administration, the unions disciplined workers and strengthened the labour collective. This particular union development led to the trade unions' roles becoming anti-protective, as compared to the classic role of trade unions in representing workers in their relations with employers. Given this significant historical prelude to union development, RUCs have formed in Ukraine on the basis of these particular union roles and functions underpinned by union control and distribution; meanwhile the ITUs have attempted to depart from these functions of control and distribution.

4.3.2. Union Structuring and Density

According to unions themselves, the current density of unions in Ukraine constitutes approximately 50% of the workforce (Kondryuk, FPU's vice-president, Volynets, KVPU's and NPGU's president, Akimochkin, KVPU's and NPGU's vice-president, interviews). This

⁴³ These laws prohibited workers from changing their place of employment without permission from the enterprise administration, they punished workers for poor quality work and they allocated enterprise management the right to transfer workers to other regions.

contrasts starkly with the almost 100% unionisation rate, which had been common under the socialist IR. The decline of union membership was due to the combined effects of the abolition of universal membership, privatisation and opposition by private owners to the establishment of unions (e.g. Kubicek 2004, Sayenko and Pryvalov 2003, UCEPS 2001).

Besides these structural causes of membership decline, workers' withdrawal indicated a severe disillusionment of workers with trade unions. Sometimes unions of whole organisations and, in rare cases, whole sectors or occupations withdrew. As workers' disillusionment with trade unions has a historical background, trade unions are still perceived in Ukraine as 'old', communist-style organisations (e.g. Shangina 2001, Verednykova 2005, Yatsenko and Piskovy 2011). According to one survey, only 18.7% of union members believe that unions are institutions that should and can protect their rights (UCEPS 2001). This negative image of trade unions has been continuously reinforced, because trade union activities have barely addressed the cost and consequences of post-socialist transformation for workers. Also, unions have continued to focus on traditional social services, such as the distribution of discounted holiday vouchers, presents and the organisation of free-time activities (Sayenko and Pryvalov 2003). According to UCEPS (2001), 55.8% respondents pointed out that they have not had any assistance in terms of protection of their work-related interests; 25.7% received New Year presents; 23.2% received discounted holiday or recreation vouchers from trade unions; 17.5% received material assistance; and 7.3% received discounted tickets for free-time events. Only 5.8% of workers surveyed were consulted by trade unions on their legal rights and 1.1% were assisted in their individual conflicts with an employer (ibid, Shangina 2001).

In spite of the still comparably high proportion of workers remaining union members, union coverage has not ensured the organisational strength of trade unions necessary for conflict-based worker representation. Around three-quarters of union members in Ukraine can be described as formal, inactive members (Bychenko 2001, UCEPS 2001). This is demonstrated by the results of one survey, showing that 43.7% of union members have habitually remained in the same former, official union and 20.2% of members originally joined, because it had been customary at their enterprise (ibid). In addition, 12.2% reported that nobody had been asked, if they consented to being a trade union member (ibid). In some cases, check-off of union membership dues even takes place without a membership declaration having been submitted by a worker (Ditkovsky,

Kyiv Metro ITU's president, interview I).⁴⁴ Such cases reflect the persistence of the socialist practice of 'automatic membership'.

In addition to the factors pointed out above, the development of a strong trade union movement in Ukraine was inhibited by a variety of existing, competing unions. Inter-union competition mainly took place between reformed (successor) and independent trade unions. As long as independent trade unions questioned the legitimacy of reformed trade unions, the reformed trade unions responded with the exclusion of independent trade unions from different IR arenas (Akimochkin, KVPU's and NPGU's Vice-President, interview; Volynets, KVPU's and NPGU's president, interview). As a result of the critical position of independent unions towards the government, employers and reformed trade unions, many newly established local union organisations were immediately destroyed either by local authorities or by employers and reformed unions (ibid). For instance, with the check-off system of membership dues exemption being in place in Ukraine, employers often refused to transfer the deducted membership dues to independent trade unions as a means of counteracting these independent unions (Volynets, KVPU's president, interview to Gavrysh 2003). This imposed significant constraints on the development of independent trade unions in Ukraine.

4.3.3. Reformed Trade Unions

In 1990 the Council of Trade Unions of the Ukrainian Soviet Socialist Republic was reformed into the Federation of Independent Trade Unions of Ukraine. One year later, the latter was renamed the Federation of Trade Unions of Ukraine (FPU). Currently, the FPU declares membership of over eight million workers (down from 26 million in 1989), including over 2 million students and pensioners (Mr. Kulik, FPU's acting president, in an interview with Zvorski (Zvorski 2011)). Numbers had started to decline as workers and single trade unions started to withdraw from the Federation.⁴⁵ Yet successor trade unions have barely addressed this decline, failing to develop a comprehensive organising strategy.

In the early 1990s FPU's leadership decentralised the organisational structure in order to abolish the previous structure of 'democratic centralism'. As a result of this decentralisation, around 90% of membership dues remained with enterprise unions

⁴⁴ For example, in 2007 when workers of the Kharkiv metro asked for the reimbursement of their union dues, because they had never applied for union membership, they were asked to prove that they had never applied for union membership (Diktkovsky, Kyiv Metro ITU's president, interview I).

⁴⁵ For instance, both the trade union of railway workers (766 000 members) and the trade union of workers of the Academy of Sciences (55 000 members) withdrew from the Federation (UCEPS 2001).

(Kondryuk, FPU's vice-president, interview, Shylov, FPU's head of the international department, interview). The decentralisation of the FPU structure resulted in a disconnection between the different levels of union activities. For example, when enterprise union leaders faced conflicts with their employers, enterprise-based unions found themselves isolated from the higher level union bodies (Krychkevych, DBK-4 RUC president, interview, Pechenin, RUC President at Sukha Balka, interview). Meanwhile, the Federation still “preserved a Soviet trade union tradition of simultaneous membership of hired workers and employers” (Shangina 2001, UCEPS 2001: 28). Consequently, these FPU reforms were described as ‘cosmetic’, as the changes did not go beyond organisational restructuring (Kabalina and Komarovsky 1997) and have still not achieved a clear demarcation between the union itself and employers. In the context of this critique the FPU was seen as “a largely conservative organisation that did little more than to issue hollow proclamations while millions of workers were pushed into poverty” (Kubicek 2004: 29).

Over the years of its development, the FPU faced frequent changes in its leadership, with the FPU leadership becoming increasingly deeply implicated in the Kuchma regime (Borisov and Clarke 2006). All FPU's former presidents resigned against a background of controversy related to the FPU's political position (discussed in more detail below) and inherited property, undermining FPU's legitimacy in the eyes of the public. By inheriting financial and material resources of Soviet trade unions the FPU became one of the richest collective property owners (Budzan 2002). The assets the FPU inherited amounted to approximately 3 billion dollars and further profits were generated as a result of commercial activities on the basis of those assets (Shangina 2001, Volynets, KVPU's and NPGU's president, interview; Akimochkin, KVPU's and NPGU's vice-president, interview). The FPU's financial standing was elucidated in 1993 by its former president Olexandr Stoyan. Stoyan declared that it was necessary for the FPU to strengthen the financial base of the Federation through commercial activities (“Trade unions’ newspaper”, 6 February 1993). Consequently, as a rich organisation, the FPU became financially independent from the dues money of its members. By choice, however, the FPU put itself into a dependent relationship with the government, as some politicians constantly threatened to withdraw the property rights from the FPU on different occasions,⁴⁶ while the FPU's legitimacy was repeatedly attacked in public (Kovalenko 2006, Martemyanov 2011, Shangina 2001).

⁴⁶ In 2011, for example, the Prosecutor General's Office opened 35 criminal cases and submitted 147 cancellation decrees regarding the illegal appropriation of 45 property units and land plots by the FPU (“Zerkalo Tyzhnya”, web-news, dated 14 September 2011).

As living standards deteriorated throughout the 1990s, the Federation publically criticised government policy. However, political criticism on the part of the FPU has never resulted in nation-wide strikes or protests.⁴⁷ The then president of the Federation, Olexandr Stoyan, publicly declared that “the trade unions of Ukraine supported the President’s request to retreat from strikes” (UTN news, dated 4 April 1994). Despite declaring this as the FPU’s position, it differed from that of the FPU’s affiliated branch and those of regional union federations, some of which, meanwhile, have conducted ad hoc actions in order to challenge government policy. Against this background in December 1995, Stoyan, together with the then prime minister of Ukraine, received an award “For achievements in social partnership”, for his “particular contribution to the conclusion of the General Agreement, the social partnership development and peace” (Mist, 29.10-05.11, 1995 cited in Bodnar, Shara, Kudina et al. 1996). Meanwhile, hardly receiving any support from the FPU, enterprise-based union organisations united with employers in their efforts to protect their enterprises (ibid).

During the presidency of Olexandr Stoyan (1992-2005), the FPU’s lack of political independence from the governing Party of Regions served as a particular cause for criticism (Yakymenko 2009). Stoyan was elected in the 1992 elections to the parliament as a member of the oppositional party *Batkivshyna* and changed afterwards to the governing Party of Regions. He was re-elected during the next four parliamentary elections. Shortly before the presidential election of 2004 the FPU concluded its alliance with then prime minister and candidate for presidency from the governing Party of Regions, Viktor Yanukovich (Kuzio 2007). During the election, Yanukovich was alleged to have taken part in falsifying votes, which ultimately allowed him to win. The FPU leadership, nevertheless, ignored the allegations against Yanukovich. This led to considerable tensions within the FPU, since some sectoral and regional trade union organisations opposed Yanukovich’s corrupt regime (Borisov and Clarke 2001). During the protests against the fraudulent vote of Yanukovich – identified later as the Orange Revolution – Stoyan publicly appealed to the President of Ukraine to prevent protests on the streets. This action, on the part of an organisation claiming to represent workers, prompted worker outrage. The reaction was clear and immediate; the central FPU building was occupied by protesters and Stoyan was forced to flee.

⁴⁷ For example, the FPU once declared countrywide strikes which were aimed at stopping the decline in living standards and consequently stopped work at enterprises for one hour. As one can imagine, it was much easier to sustain a one-hour work freeze than a general strike at all enterprises. Such tactics were used by the FPU on a regular basis throughout the 90s (Bodnar, Shara, Kudina et al. 1996).

The new FPU President, Olexandr Yurkin (2005 - 2008), focused his efforts on enhancing the FPU's public image, which led to a new PR-policy. Under his presidency, a new concept for the development of the FPU (FPU 2005) appeared and the FPU Congress adopted a detailed and advanced plan of action (FPU 2006). The FPU adopted an extensive range of ambitious and (barely achievable) goals to be implemented over the next five years. These goals required wider involvement in politics, economics and society. For example, the plan included the creation of 4 million workplaces, wage increases of four to five times minimum wage levels (as compared to the persistent 80-90% of the subsistence minimum) and an increase in the living standards of workers so that they would be comparable to those of Western Europe. The FPU also declared it would reform the medical and educational spheres, and to facilitate growth in the housing markets. Notably, for the first time in history, the FPU committed itself to establishing cooperation with trade unions outside the FPU and to coordinating union activities across the country with the other unions (FPU 2005, 2006).

It was during Yurkin's term in office that the debate on the internal structuring of the FPU was next resurrected, when the FPU embarked on a process of 'internal reforms' (Yurkin, FPU's former president, interview, cited in Alexeev 2006). These reforms aimed to strengthen and broaden the authority of primary union organisations, branch trade unions and oblast (regional) trade union councils (ibid). The structural reforms were hardly realised. As the government threatened to take away the FPU's property (e.g. Borisov and Clarke 2006), the bulk of activities that trade unions continued to concentrate on was retaining their property. Later on, even the few reforms within the FPU came to a standstill, as Yurkin resigned in 2008 after his vice-president had been caught offering a bribe (Zvorski 2009).

Despite several announcements, the extraordinary congress of the FPU did not take place after Yurkin's resignation until 2011. In November 2008, the FPU Council elected Vasyl' Khara, Party of Regions MP and President of the Donetsk regional council of trade unions, as the new FPU President. Similar to Stoyan and Yurkin, Khara's presidency has also been constantly surrounded with controversy. As he was elected by the FPU Council and not by its congress (as the FPU Constitution stipulates), the court of the city of Kyiv overruled the decree and legal rulings issued earlier by the Ministry of Justice, which had confirmed the legitimacy of Khara's election and presidency (Kyiv Post, 3 March 2009). However, Khara remained the FPU's President until his reelection by the FPU Congress in 2011. Under Khara's Presidency the FPU remained committed to its previously adopted concept of development and plan of action. The controversies

related to the FPU's lack of political independence as well as to union property have since escalated. Shortly after his election by Congress in March 2011, in November 2011 Khara resigned. As he explained in his written statement, he "[...] can no longer lead the organisation, in which the majority of middle and lower level [union] presidents are chronically idlers, professional betrayers and provocateurs [...] glued to employers" (Khara, former FPU's president, written statement, Popovich and Zvorski 2011). Shortly before Khara resigned, an inspection by the Prosecutor General made public the appropriation of various FPU holiday resorts by both Khara's daughter for the total price of 20,000 Euro (Zerkalo Tyzhnya, 08 November 2011) and by FPU leaders (Gavrylyuk, Deputy Prosecutor General, interview to the newspaper "Kommersant Ukrayina", 14 September 2011, Mirror Weekly, 14 September 2011).

On 11 November 2011 the FPU Council elected Yuriy Kulyk to chair the Federation until the next congress. Kulyk reinforced the compliant position of the FPU:

[FPU's] number one goal [is] to establish social dialogue. [...] Not only in Ukraine, but all around the world negotiations are the key means of trade unions in order to achieve the improvements in workers' social and economic conditions. [...] If we fail to come to an agreement with the political authorities, we can move on to other means of achieving our goals such as: pickets, boycotts and strikes. However, the first and foremost task of trade unions is to come to an agreement. To come to an agreement — it is my style, it is to what I have always been heading towards, and this is what I worked upon in the first three days of being FPU's president (Kulyk 2011).

To this end, Kulyk met the Head of the Ukrainian Parliament and different MPs in the first three days of his presidency (ibid). By indicating this 'partnership'-oriented position of the FPU, Kulyk's strategy was the one of enhancing the establishment of more solid contacts in politics (ibid). He expressed the intention to improve and tighten the dialogue with the political decision-makers and to raise their awareness of the FPU's problems in the Ukrainian parliament.

4.3.4. Independent Trade Unions

Independent trade unions have been structured and have developed in a markedly different manner from that of the FPU. Independent trade unions first arose out of miners' strike committees in the Eastern Donbass region of Ukraine in 1989. Remarkably, one impetus for their organisation that was stressed by different union leaders was the impotence of existing trade unions to address the decline in workers' living standards that had begun in the last years of socialism (e.g. Tretyakov, Sukha Balka ITU's president, interviews I and II, Ditkovsky, Kyiv Metro ITU's president, interviews I-III). These unions emerged in opposition to the government and existing miner trade unions that had ignored workers' growing complaints over low wages and price inflation (Volynets, KVPU's president, interview; Fundovny, VPONU's president,

interview; Panasenko, FTUMWU's president, interview). Similar initiatives and independent unions followed among transportation and metro workers (Ditkovsky, the president of the independent trade union of Kyiv metro workers, interview). Starting with economic demands to stop inflation and adjust workers' wages, the protests of independent unions soon grew into political protests, which demanded the resignation of the government and establishment of a market economy (e.g. Crowley 2001).

No law on trade unions existed at that time, so these newly established independent unions acquired legitimacy and recognition through the scale of their collective action (Kabalina and Komarovsky 1997, Ditkovsky, Kyiv Metro ITU's president, interview, Sydorenko, Zaporizhya clinical hospital ITU's president, interview). As independent unions initially appeared critical of reformed trade unions and enterprise directors (Akimochkin, KVPU and NPGU vice-president, interview), employers and former official unions both responded with outright opposition to independent trade unions, in some cases working in unity with each other (ITUC 2010, 2011, ILO 2006).

As the economic situation worsened and workers' wages could no longer ensure even the purchase of basic food necessities, independent miners' unions went on strike again. In 1996, workers affiliated with the Independent Miners' Union walked 600 km to the capital city of Ukraine, Kiev, and demanded the payment of wage arrears (Ledin 2009a, b). Afterwards, the leaders of the march were threatened with imprisonment. Under threat of new strikes, the government stopped the criminal allegations against union leaders. Instead, independent union offices were illegally searched, their safes seized and their documentation and computers stolen (Tretyakov, Sukha Balka ITU's president, interview I). In answer to this persecution, miners went on a hunger strike.

However, throughout 1994-1996 it was notable that the leaders of independent trade unions could not effectively develop a stable unifying strategy of worker representation (Bodnar, Shara, Kudina et al. 1996). Structurally dispersed independent trade unions had been consolidated in the early 1990s following numerous attempts, which coordinated their activities into the Free Trade Union Association. During the course of the structural consolidation of the independent trade union movement, however, it became evident that a united vision of how this unionism should look and a clear decision on which strategy to pursue were lacking (ibid). The crisis of union leaders' ideas about the role of independent trade unions was the origin of the divisions between the leaders of different independent unions in their negotiations for an all-Ukrainian strike, planned for 18 January 1994, which aimed to oust the prime minister at the time

(ibid). This disagreement resulted in the withdrawal of some unions from the first Free Trade Unions Association, following which the association dissolved. Later actions and strikes were organised by separate branches of trade unions in an uncoordinated manner (Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). In place of the association, independent trade unions established the Confederation of Free Trade Unions of Ukraine (KVPU) in 1998. At its start, the KVPU had 90,000 members in total. The confederation was founded on the initiative and on the basis of Ukraine's Independent Trade Union of Miners (NPGU) providing the bulk of the KVPU's membership and resources.

The overall situation of independent trade unions made it clear that an isolated occupational unionism had few prospects in view of the continuing dominance by former official trade unions (Tretyakov, Sukha Balka ITU's president, interview I; Ditkovsky, Kyiv Metro ITU's president, interview I). It was necessary, on the one hand, to structure and improve the organisation and, on the other, to expand the activities of independent unions into other sectors, coordinating them in a better manner. This understanding prompted leaders of independent unions to launch the debate and activities to organise workers beyond the frontiers of the mining sector (Akimochkin, KVPU's and NPGU's vice-president, interview; Tretyakov, Sukha Balka ITU's president, interviews I-II). As a result, significant organising activities were undertaken and independent unions started to emerge in sectors of the economy, in which they had not previously been represented, including the medical and education sectors. Yet many of these newly established trade unions were immediately destroyed (Akimochkin, KVPU's and NPGU's vice-president, interview).

The expansion of independent trade unions in the 1990s and early 2000s, especially within coal mining, coincided with the consolidation of oligarchies and financial-industrial groups that were partly concentrated in the same sectors (section 4.1.). During this period, independent trade unions faced harassment and persecution that intensified under Kuchma's presidency in the early 2000s (Volynets, KVPU's and NPGU's president, interview, Ditkovsky, Kyiv Metro ITU's president, interview I, II). According to the KVPU's estimates, sustained pressure on the independent trade unions resulted in the loss of about 133,000 members within one year in 2002 (Volynets, KVPU's president, interview with Gavrysh (Gavrysh 2003)). Between 2002 and 2004, for example, the KVPU president was physically beaten five times by the police in public places (ITUC 2005, ILO 2006). His family members were also persecuted and in 2004 his son was kidnapped and seriously beaten (ibid). Leaders of regional and local trade union

organisations were persecuted as well. Due to the heavy persecution and harassment of members, as well as the physical abuse of leaders and activists, the KVPU filed cases with the Ukrainian courts, but the court hearings did not yield results. Consequently, the KVPU filed a complaint with the ILO's Committee on Freedom of Association (ILO 2006). It took the ILO and the government several years to investigate the complaint. Meanwhile, the government tried to deny the assaults and to exclude the representatives of the KVPU from the delegations to the annual ILO conferences (Akimochkin, KVPU's and NPGU's vice-president, interview, Volynets, KVPU's president, interview).

In addition to such pressure, the KVPU suffered from a constant lack of resources. While the FPU employed some of the best economists and lawyers, independent unions could only afford to employ experts, who could not find better jobs, given that the KVPU could only pay very low wages (Volynets, KVPU's and NPGU's president, interview). The independent union movement also lacked experienced leaders in newly emerging enterprise-based unions, as the financial and technical capacity of the KVPU to educate all newcomers was also limited. Both organising and education activities of the KVPU were only made possible due to the technical assistance of other organisations. Thanks to bilateral cooperation with foreign trade unions, with the then International Confederation of Free Trade Unions (now the ITUC) and some global union federations as well as the Solidarity Center of the American AFL-CIO, KVPU received training and education assistance in organising and educating union leadership.

In spite of the difficulties surrounding the establishment of new trade union organisations, their proportion increased threefold during the period of 2000-2004 (Chernyshev 2006). At present, the KVPU has 275 000 members (Volynets, KVPU and NPGU president, interview; Akimochkin, KVPU and NPGU vice-president, interviews). Even though this number remains very low in comparison to the present eight million members of the FPU, the KVPU's strategy of extending unionism across branches, professions and enterprises has led to an increase in KVPU's growth (ibid). It currently has five branches (teachers, miners, transportation, medical workers and football players), as well as the All-Ukrainian Trade Union, "Defence of Justice", uniting primary organisations across different sectors.

4.4. Conclusion: the Implications of the Co-existence of Reformed and Independent Trade Unions for Worker Representation

This chapter has addressed the formation of the IR institutional structure and trade union developments within the Ukrainian context. The chapter showed that in Ukraine, the external context surrounding unions (authoritarian governance and an oligarchic economy) has created unfavourable conditions for the establishment of new institutional structures to deal with conflicts of interest. As political and economic elites lobbied for their own preferential treatment, the articulation of conflicting interests through formal channels was difficult.

The conditions described above provided a challenging context for the enactment and enforcement of the institutional framework of the IR system. Firstly, although basic, internationally recognised premises in the form of the pluralistic model of IR (including the freedoms of association and bargaining and the right to strike) were integrated into the institutional infrastructure through the drafting and adoption of new laws throughout 1990s, the lawful exercise of these principles cannot be taken for granted. In the context of the weak rule of law, it has been possible to violate laws without penalty. Developing under such conditions, both FPU and KVPU confronted these challenges and stretched the traditional boundaries of IR. For instance, in order to exercise their rights in terms of worker representation, they first had to ensure that the law was enforced.

Secondly, the validity of the assumption that weak worker representation has been due to unions' efforts to reproduce their traditional role and, consequently, their inability to represent workers is hardly questioned by the academic literature, which focuses solely on union weaknesses across the FSU. The reorganisation processes of Ukrainian trade unions have been unstable, as shown by the frequent changes of FPU presidents and the disintegration of the independent trade unions' Association in 1997. Certainly, these unstable reorganisation processes of Ukrainian trade unions show union weaknesses. At the same time, as the differences are made clear in the examples of the Ukrainian major centres of unions – the FPU and KVPU – that have been put in place since the early 1990s, the analysis of the specific features of the FPU and KVPU shows that such arguments may not prove correct right away for all trade unions. As the problems of both KVPU and FPU discussed above show, the root of these union weaknesses can be found in a deeper understanding of different choices of trade unions and their historic development along different paths.

Firstly, the mission statements by the newly established KVPU and reformed FPU reveal stark differences in their understandings of what worker protection actually means. The

KVPU's mission is aimed at raising the workers' awareness of their identity based on a respect for their rights as hired workers as provided for in law. This indicates a rights-based approach to worker representation that has been accepted as a basis for independent trade unions and the KVPU. As the mission of the KVPU states,

"[t]he major task of free trade unions, trade unions of the new European democratic type, is to make a labourer aware of the ideology of freedom, justice and solidarity. No one is going to promote the rights of a person, unless s/he puts effort in it. Therefore, now it is the major mission of trade unions to change the consciousness of hired labourers in order to raise their awareness that one has to fight for one's own rights [...] The mission of trade unions is to create a civil society, to protect hired labourers and to promote the social rights of citizens" (KVPU, n.d.).

This formulation of the mission by ITUs and KVPU contrasts with the formulation of the mission of the FPU. The statement of the FPU reveals a rights-based approach to worker representation but it refers, first and foremost, to the rights of its union organisations:

"[T]he promotion and representation of the interests, and the protection of the rights, of member organisations of the FPU; the coordination of their [organisations'] collective actions; the promotion and defence of labour, socio-economic rights and the interests of union members in relations with the state and regional authorities, in their relations with employers, organisations and associations, as well as with other associations of citizens" (FPU n.d.).

As this extract from the FPU's mission statement shows, the FPU's concerns are orientated towards member organisations. Given the enduring membership of many workers in managerial positions, the mission to represent the FPU's affiliated organisations refers to the representation and protection not only of workers but also of managerial staff. In 2003, on the back of this persistent membership of managerial workers in the FPU's affiliated unions, the then-ICFTU's mission to Ukraine postponed the affiliation of the FPU.

Identifiable differences between the KVPU's and FPU's missions are further indicated through the listing of violations that both organisations are concerned about:

"[T]he Federation of Trade Unions of Ukraine (FPU) has recorded 43 unique cases in 32 companies where the management did not comply with the Law on Trade Unions, their Rights and Guarantees of Activity. Violations range from failure to transfer special funds that the companies are obliged to allocate to trade unions, the refusal to utilise membership dues check-off mechanisms, the interference in unions' internal matters and obstruction of the work of their representatives, to serious cases of trade union discrimination" (ITUC 2010).

In contrast,

"Members of the Confederation of Free Trade Unions of Ukraine (KVPU) have [...] suffered from anti-union harassment, and their employers often ignored the right to organize and bargain collectively. KVPU reports that turning to the courts or law enforcement bodies for protection is hardly ever effective, and sometimes local authorities side with the employers against trade unions. However, there were also reports about unfairly dismissed trade unionists being reinstated, and KVPU has won over 20 different court cases over the last four years just against one company" (ibid).

At first glance, these reports demonstrate that both union associations reinforce their rights-based approach to worker representation by fighting for the enforcement of legal rights. Upon closer inspection, it is evident that the FPU is more concerned with the violation of the organisation-related legal provisions that benefit member unions as

organisations (e.g. a transfer of special funds, check-off of membership dues or interference in union matters). Meanwhile, in the case of the KVPU, workers' individual and collective rights, such as the right to organise, are stressed. This brief excursion into the positioning of the two national union associations supports the argument that there are systematic, representative differences in the positions of ITUs and RUCs.

Secondly, stark differences have characterised the subsequent development of reformed and independent trade unions. The FPU declared autonomy under very specific constraints, including its political alliances with governing parties and commercial activities. Although the FPU distanced itself from its former role as 'transmission belts', its historical development and resulting legitimacy-related problems have inhibited the transformation of its role and functions in terms of conflict-based worker representation. Controversy surrounding its leadership, political position and commercial activities has made it difficult, if not fundamentally contradictory, for the Federation to challenge the government and employers, and the Federation has been attacked in public on various occasions. In contrast, independent trade unions developed from generating and articulating conflicts as their starting point. This approach of the KVPU and independent trade unions reveals more conflict-based forms of worker representation, bearing a greater similarity to those common under the pluralistic system of IR. At the same time, it also reveals that high set-up costs were needed.

As the result of having been established at different points in time, successor and independent trade unions have each confronted different organisational problems over the course of their development. As different controversies surrounded the FPU, it was forced to develop new sources of legitimacy and ways to retain its property and preserve its declining membership. These overarching organisational challenges hindered the FPU's development of its representational capacity, not because it lacked representational capacity itself but rather, these organisational challenges (legitimacy, property and membership) threatened the union's very ability to continue to exist. In contrast the KVPU's organisational issues have not included problems of legitimacy in the eyes of the workers. The independent trade union won its legitimacy by conducting strikes and protests, especially throughout 1990s. Instead, the KVPU's organisational problems revolved around high set-up costs and a lack of the resources necessary to ensure the KVPU's daily operations, to found new independent organisations and educate new leaders. These particular organisational problems, which challenged the

FPU and KVPU show that reformed and independent trade unions have been subject to contrasting sets of challenges.

Over and above these re-organisational problems confronting FPU and KVPU and constituting a part of their formation processes, rivalry and conflicts between reformed and independent trade unions have made learning, coordination and cooperation between both trade unions difficult in practice. The relationships between reformed and independent trade unions have been very problematic. Under Stoyan's presidency the FPU consistently and continuously refused to co-ordinate its activities with those of the KVPU. For instance, for some time, the FPU repeatedly refused to include the representatives of KVPU and other alternative unions into the tripartite bodies that negotiate the General Agreement (Akimochkin, KVPU's Vice-President, interview). The interactions between the KVPU and FPU improved during Yurkin's Presidency at the FPU, as a coordinating council of different trade unions was established (Volynets, KVPU's President, interview). Then, the FPU even agreed to provide the KVPU with several offices in the main trade union building that the FPU had inherited from the Soviet trade unions. Yet this approach adopted by Yurkin, co-ordinating union activities with the KVPU and developing a unified position of all trade unions, did not last long because Yurkin resigned from the position of the FPU President soon after his election. Under the new FPU President Khara any interactions between the two union organisations came to a halt. when the FPU reverted to its policy of non-cooperation with other trade unions. The lack of coordination, cooperation and unified positions of both trade unions resulted in union rivalry with union resources not being channelled into worker protection but into winning inter-union conflicts and, in case of independent trade unions, the inclusion into different IR arenas.

Additionally, as the KVPU has continuously criticised the FPU and its attempts 'to preserve FPU's monopoly' and to preserve the union's property exclusively for itself, independent trade unions threatened the FPU's legitimacy, which had already been damaged by the controversies surrounding the FPU's political position, leadership and its commercial activities. Similarly, albeit in a different form, the FPU threatened the further existence of the KVPU organisations. The FPU excluded KVPU representatives from different IR arenas and continuously refused to provide the KVPU with any of the offices inherited from the Soviet trade unions. This refusal of the FPU to share the inherited properties aggravated the KVPU's financial problems.

All in all, inter-union rivalry inhibited the enforcement of the principles of pluralistic interest representation, which was the cornerstone of formal institutions. Furthermore, this rivalry had significant consequences for the subsequent enactment of a new institutional infrastructure. The analysis above clearly showed that this same institutional infrastructure became the object of inter-union rivalry and competition. First and foremost, collective bargaining law became an arena of contestation between different trade unions. Formal requirements demand that all trade unions existing at the same enterprise or in the same sector establish joint negotiating bodies in order to enter into collective negotiations and conclude and sign agreements. However, many cases can be cited, in which successor trade unions simply have avoided establishing joint negotiating bodies by postponing or hurrying the days of negotiations without giving notice to other unions, or just by signing an agreement with the employer on their own.⁴⁸ Such practices are not limited to the level of enterprise-based IR, but have also been channelled to higher levels, as in the case of the Free Trade Union of Education and Sciences of Ukraine (VPONU) and of the Free Trade Union of the Medical Workers of Ukraine (FTUMWU), despite the fact that these trade unions committed to conforming to all sectoral union requirements (Fundovny, VPONU president, interview; Panasenko, FTUMWU president, interview). In many cases, trade unions have failed to establish a joint negotiating body, and as a rule employers choose to negotiate with the biggest union at the enterprise, which is a successor trade union in the majority of cases. Hence, independent trade unions were frequently excluded from the collective bargaining and social partnership. This re-enforced the historic domination of successor trade unions within the IR arenas, while depriving independent trade unions from an opportunity to bring their issues relating to worker representation into IR arenas.

A similar conflict can be observed in relation to the Law on Trade Unions and the later Law on Social Dialogue that was submitted by the successor trade unions. By ensuring the further operation of the successor FPU within different IR arenas, due to its inherited position, the law helps the FPU to establish more stable pre-conditions for its organisational preservation. At the same time, as both these laws have explicitly excluded or tried to exclude any other union organisation from IR arenas, they threaten the access and participation of independent trade unions.

Within the IR arenas, this inter-union rivalry has therefore led to the development of somewhat surprising conflict lines. Rather than being between workers and trade

⁴⁸ For many examples of such cases see Case No. 2388 filed by the Confederation of Free Trade Unions of Ukraine (KVPU) with the ILO Committee of Freedom of Association since 2003 (ILO 2006).

unions on one side, and the owners of capital on the other, conflicts have instead most commonly and frequently existed between differently formed, reformed and independent trade unions. In this way, the source of union weakness in Ukraine has not been the reproduction of the traditional form of worker representation, as was commonly argued in the literature. Instead, the conflict immanent in the ideational and organisational pre-conditions of the FPU and KVPU has led to intense inter-union rivalry and conflicts, the momentum of which has been channelled into the adjustment of labour laws. This has caused a notable lack of a unified position within institutional arenas, thus inhibiting the development of strong worker representation in Ukraine.

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). Prysyzhnyuk and Koval were dismissed and re-instated after several court hearings (Prysyzhnyuk, 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 Mykolaivcement 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 Krasnevych's position taken to restrain the increasing conflict over wages and lay-offs. This was shown by Krasnevych's repeated attempts to calm workers down by promising payment of their wages. Krasnevych 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 Krasnevych. Importantly, management needed Krasnevych 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 Krasnevych'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, Krasnevykh's position was characterised by a constraining approach as commonly falling within the union function of disciplining workers. This was shown when Krasnevykh 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.

Chapter 6. Learning Processes of Ukrainian Trade Unions

This chapter focuses on issues relating to the operation of trade unions. The examples of the Kyiv metro and Arcelor Mittal Kryvy Rih (AMKR) unions discussed below are included here in order to explore the processes of implementing strategies and union choices made during the organisational phase in everyday union practices. Each of the subchapters (6.1 and 6.2) starts with a short description of the respective enterprise's background and union organisation. Next, union operation and practices are discussed. Finally, all of the trade unions are compared and conclusions regarding union operation are drawn in subchapters 6.3 and 6.4.

6.1. Union Operation at Arcelor Mittal Kryvy Rih

6.1.1. Enterprise Background

The combine Kryvorizhstal (built in 1934) used to be a strategic enterprise in Soviet metallurgy. Together with its separate facilities for ore-mining, steel processing and metallurgy, the steel mill provides a full metallurgical iron-and-steel production cycle (AMKR n.d.) and, thus, high profitability of over 60% (AMKR 2011).

Kryvorizhstal's strategic economic role resulted in a wide variety of social obligations. Under socialism, the Kryvorizhstal union administered huge social funds and facilities. The combine owned resorts, sport clubs, parks, stadiums and children's nurseries. In addition to financially supporting education and medical establishments, the repair of roads, churches and youth facilities in the city all used to be the responsibility of Kryvorizhstal.⁶⁰ While Kryvorizhstal retained resorts and children's camps, the plant's social obligations continued to amount to hundreds of millions of Hryvnias. Additionally, the enterprise reports paying 40% of all taxes received by the Kryvy Rih city authorities (AMKR 2008).

In 2004, the steel mill was privatised by a Ukrainian business group owned by two Ukrainian oligarchs, Rinat Akhmetov and the then President's son-in-law, Viktor Pinchuk. This was "one of Ukraine's most controversial post-Soviet privatisations" (Kyiv Post, 17 February 2005). During the 2005 political turmoil, referred to as the 'Orange

⁶⁰ For example, in 2006 and 2007 AMKR transferred Hr 6 Mil. each year for "the social and cultural development of the city of Kryvy Rih" to the city mayor, Lyubonenko (Prometall 2007).

Revolution', the privatisation by Akhmetov and Pinchuk was revoked and the combine was privatised by the company then known as Mittalsteel.⁶¹

Three trade union organisations exist at AMKR. Nevertheless, the only influential one is the former socialist trade union that reformed into the union committee (RUC) of the Metallurgy and Mining Workers' Union of Ukraine (PMGU). The RUC united nearly 99% of those employed at AMKR at the time this research was conducted (Bassarab, AMKR mining department RUC's president, interview). Recently, two different, newly established unions have tried to install themselves at AMKR, but their development was severely hampered, when the ITUs' leaders were dismissed (Samoylov, the president of the Kryvyi Rih Regional Confederation of Independent Trade Unions, interview; Grunin, the president of the AMKR ITU, interview; Volynets, the KVPU's president, interview to Vedernikova 2005).⁶²

6.1.2. First Union Reforms (Organisation)

Re-organisation of the AMKR RUC goes back to the debates on the unions' role in society that took place in the late 1980s. The then Secretary of the USSR Communist Party, Mikhail Gorbachov, heavily criticised trade unions for their adherence to the old methods and mechanisms of the work with the members (Materials of the XXVIII Congress of the Communist Party of the Soviet Union, cited in Melnik, Stetsyuk and Shmarin 2005). Meanwhile, the time had passed, when trade unions compliantly fulfilled the directives of the Party bosses and served as an adjunct of the administration at an enterprise (ibid). This lack of union change was claimed to have led workers to distrust unions and their capacity to protect workers' interests.

Against this background, the PMGU and Kryvorizhstal union declared 'their cardinal renewal' at the PMGU congress, which took place three months later (Ogorenko 2005). The new union statute abolished democratic centralism and allocated more freedom to RUCs (ibid).⁶³ The share of the membership dues transferred to the higher level union bodies decreased and a legal service for workers was established (Auer 2005). The

⁶¹ In 2004 the steel mill was privatised for the low value of around \$800 million. This price was definitely too low for such a strategic enterprise, while considerably larger bids [...] were rejected under controversial tender conditions' (Kyiv Post, 24 August 2006). In contrast, the steel mill was re-privatised later for five times the previous amount (ibid).

⁶² There are around 200 members in the primary organisation of the National Confederation of Labour, and less than 50 workers in the independent union of AMKR workers (Samoylov, the president of the Kryvyi Rih Regional Confederation of Independent Trade Unions, interview).

⁶³ These changes were reversed at the PMGU's second Congress. At this Congress the primary organisations were made to comply with the decisions of the higher level union bodies and union members, that is, with the decisions of the PMGU's Central Committee (Ogorenko 2005).

union's Mass-Production Commission on Socialist Emulation was renamed the Socio-Economic Commission on the Collective Agreement and its Enforcement. Also, for the first time in its history, the Kryvorizhstal RUC's leadership started to publicly criticise falling wages (Melnik, Stetsyuk and Shmarin 2005).

In the early 1990s the enterprise management sent workers on unpaid administrative leave. The Kryvorizhstal RUC approved the decision, despite this contradicting its earlier criticism of the deteriorating working conditions. The union's action provoked outrage on the part of workers, some of whom wanted to go on strike. Nevertheless, the RUC refused to organise any actions and focused their efforts on pacifying the workers. In the words of then union president, Auer (who chaired the union from 1988-1993):

"The union committee was challenged by a choice between emotions and common sense. We understood that organising a strike would not do any good. But, there would be many losers. How much time and means are required in order to re-launch the metallurgical combine after its standstill? [...] How would it affect the city budget, from which [...] teachers', doctors' and other public employees' wages are paid?" (Auer, the former Kryvorizhstal RUC's president, interview, cited in Melnik, Stetsyuk and Shmarin 2005: 156).

This quote demonstrates that during this early phase of union development, workers' action ('emotions') was taken to be negative. As the RUC decided 'not to allow strikes, disorder and roaming', it ensured 'the salvage of the enterprise and its labour collective' (ibid). Also, the quote shows that the RUC leadership still saw the union role in broader social terms: it stressed social issues, such as the regional employment and public sector workers' welfare but remained, at the same time, distanced from its own members, who suffered due to this decision taken by local management.

Some years later, this was seen as the union's major achievement of that early period of union organisation (Kukota, the former Kryvorizhstal RUC's president, interview, cited in Melnik, Stetsyuk and Shmarin 2005: 165). Elected in 1994 to chair the union,⁶⁴ Yuriy Bobchenko adopted the same non-militant position, when wage debts started to accumulate in the early 1990s. In response to growing wage debts, the RUC leadership asked workers 'to understand the situation' (AMKR workers, personal communication). Looking back at these turbulent times, Bobchenko commented that after five months of wage delays in 1994 the RUC could, theoretically, have drawn on the 'language of ultimatums' and could have resorted to strikes (Bobchenko, the AMKR RUC's president, interview, cited in Melnik, Stetsyuk and Shmarin 2005). Nevertheless:

"Looking back, I can say absolutely definitely we acted at that time in a completely right way in view that those enterprises, at which strikes still were allowed, suffered such damages and drove

⁶⁴ Yuri Bobchenko had already chaired the union organisation for five years (1989-1994) in his capacity as vice-president of the Kryvorizhstal RUC. After his election to the position of RUC president in 1994, Bobchenko still remains in this position to the present day.

themselves into a debtor's prison, from which they cannot get out until today. At our combine the present situation looks completely different" (ibid).⁶⁵

As the discussion above shows, hardly any changes to IR took place in the period immediately following the first privatisation (Bassarab, the President of the AMKR mining department union, interview). In its organisational phase, the union 'renewal' has not included any changes in terms of its position and attitudes to conflicts. As extensive social activities and constrained attitudes to conflicts have characterised the RUC's development during this organisation phase, the RUC's development reinforced the previous path of worker representation. Especially during the period of heavy economic decline, this path of worker representation did not help to address workers' problems: the average wage of the Kryvorizhstal workers has remained consistently below the average in the metallurgical sector.

6.1.3. The changes in the operation of the AMKR union

The entrance of foreign investors in Ukraine's metallurgy sector, however, has meant the appearance of "new players in the industrial relations, with whom trade unions have to develop constructive relationships" (PMGU n.d.). This has not always been unproblematic. For local trade unions in particular, TNCs "impede the conduct of social dialogue and, as a rule, worsen the conditions of operation of primary trade union organisations, and significantly complicate the solution of socio-economic issues" (ibid). Criticism related to the enterprises' social obligations is particularly likely to be raised after privatisation (e.g. Samara Research Group 1996, Varshavskaya and Donova 1996).

In preparation for the new privatisation of Kryvorizhstal in 2005, the union leadership studied Mittalsteel's general practices (Bassarab, the president of the AMKR mining department RUC, interview; AMKR worker, interview). For example, in Kazakhstan where, at the time, Mittalsteel owned some operations, all social facilities had been retrenched, employment had fallen by 37% and seven out of fifteen iron ore mines had been shut down. Also, a productivity increase of 226% was accompanied by only a 45% increase in absolute wages (Bobchenko 2006a). There were also some negative social implications of Mittalsteel's ownership of facilities in the Czech Republic and Poland (Sakhno 2006).

⁶⁵ Similarly, as the representatives of the commission on socio-economic and informational work noted: "[...] the action was always where the trade union organisation at the enterprise was. That's why people trusted the union activists when the latter advised them not to strike, not to stop the enterprise, but trust and work with one goal – to come out of the crisis with dignity" (Khomenko and Kulishkina cited in Melnik, Stetsyuk and Shmarin 2005).

Having done their research, the AMKR RUC turned to lobbying the State Property Fund of Ukraine (SPFU), which was responsible for privatisations, to include the issues of wage increases and welfare-related demands into the purchase and sale agreement as the union's conditions for the Kryvorizhstal privatisation (Kryvorizhstal Trade Union 2005). Out of the 19 union demands, wage-related demands and demands for social services enjoyed equal number and priority. The cost of 'the social package' included in the purchase and sale agreement amounted to almost the same amount of Mittalsteel's purchase payment for Kryvorizhstal (approximately Hr 24 billion, then the equivalent of around USD 4,5 billion) (Sakhno 2006). This social package suggested by the trade union shows that, aside from their aim to increase workers' wages, the union also strived to ensure its continued role responsible for social functions and activities. By signing an agreement with the SPFU, the union ensured its participation in every privatisation-related audit by the SPFU (Bassarab, the president of the AMKR mining department RUC, interview). AMKR was the first case in which trade union demands were included in purchase and sale privatisation agreements (Kazachenko 2009).⁶⁶

Growing Trade Union's Leverage and Workers' Wages

When Mittalsteel bought the plant, it had to immediately increase wages by 4% by the end of the year and then by another 12-15% in the first quarter of 2006 according to the purchase agreement. However, management delayed the increases (Bobchenko 2006b). AMKR management argued that "the point is not the non-fulfilment of the conditions of 'the social package' but in the correct interpretation of their enforcement [...]" (AMKR 2005). In response to this, the RUC declared a protest one month after the steel mill was bought by AMKR in late November 2005, but subsequently cancelled it. Instead, the union leaders turned to the SPFU and its Head, Valentyna Semenyuk, for help (Bassarab, the president of the AMKR mining department RUC, interview). As Bobchenko claimed, if the SPFU does not pressure management to comply with the purchase conditions, the union will use 'the toughest methods' (ibid). The AMKR union strategy was politicised further, as the union declared its intentions to appeal to the President, Parliament of Ukraine and the Security Council with demanding that management should comply with their social obligations as were the conditions for its privatisation (1+1 TV Channel, 20

⁶⁶ This case became an example for others to follow. In 2003, the sectoral trade union PMGU concluded a similar cooperation agreement with the SPFU. Although the agreement envisaged that the PMGU would participate in the process of drafting the purchase conditions of the enterprise to be privatised in the SPFU, in practice, trade unions never succeeded in including their demands in the purchase agreements in the same manner as the AMKR did (Kazachenko 2009). The case of the AMKR thus became an exception.

December 2005). This political action occurred without underpinning any of the demands with collective action.

Meanwhile, the AMKR management still postponed the wage increases but transferred additional payments for social services directly to the RUC and granted some additional one-time benefits.⁶⁷ Shortly afterwards an agreement was reached between management and the RUC to postpone negotiations over wage increases (AMKR 2006a) and soon wages were increased by 4% for the rest of 2005. Nevertheless, the further increase of 12% for 2006 as well as year-end bonuses remained under discussion. Then, negotiations for 2006 stalled. While the SPFU reproached AMKR for not raising workers' wages (Kyiv Post, 24 August 2006), the State Committee of Industry and Entrepreneurship in the Ukrainian Parliament also demanded, on the RUC's request, that the company provide its workers with health insurance and pay out year-end bonuses (AMKR 2006b). AMKR management provided workers with health insurance (ibid), but the two key issues (wage increases and year-end bonuses) still remained unsolved (Polokhnenko 2006).

This time the RUC organised a protest in front of the administration building at the end of December. As Bobchenko commented in public, this protest became "not the lesson for them [management] but a test for us [unions] [...] of our capacity for the future struggle [...], as it is already a while that we have not protested" (Bobchenko, AMKR RUC's president, interview to Stolyarov 2006). At the same time, as union strategy mainly focused on pressuring the SPFU, this union's protest looked rather symbolic.

As the negotiations over wage increases had barely progressed, the protocol of disagreements was concluded between management and the union in March 2006 (Polnyi 2006). In May, SPFU's Head set a deadline for Mittalsteel to fulfil its obligations to raise wages in the following month, threatening to revoke the privatisation by Mittalsteel should management fail to do so (Kyiv Post, 24 August 2006). The agreement between the RUC and management was reached in May 2006, just ten days after SPFU's public threats (ibid, AMKR 2006c). The agreement involved increases of 10% from January and 5% in June (compared to the 20% now demanded by the union), raising workers' wages to the highest in the sector (Bobchenko 2006b, h).⁶⁸

⁶⁷ The union successfully secured some additional improvements in certain areas: e.g. the company's financial transfer in support of pensioners and one-time payments for young workers leaving for military service (Bassarab, the President of the AMKR mining department union, interview).

⁶⁸ The wages of Hr 2,000 exceeded the industry average of Hr 1,554 according to the State Statistics Committee (2008). Rather unusually, the collective agreement at the AMKR was signed even before the sectoral collective negotiations and the negotiations over the General Agreement took place (AMKR 2006d).

Despite the signing of the 2006 collective agreement, no consensus could be reached regarding 2005 year-end bonuses. The union declared another protest in November 2006, but postponed the protest one day before it was due to take place (AMKR 2006e). This time the SPFU demanded that the enterprise increase its contribution to the state budget for social services (AMKR 2006d). Shortly afterwards both the union and the SPFU signed an agreement with the AMKR on the interpretation of the clauses in the purchase and sale agreement. The company agreed to pay the year-end bonus and to transfer an additional Hr 400 million to the state budget (AMKR 2006f, g).

Against this context of repeated threats to revoke the privatisation by the SPFU, AMKR has been constantly subjected to 'tough pressure on the combine' (Starkov, AMKR CEO, interview to Umanskiy (2010)). For example, the enterprise has undergone several different audits by the state. Over the years, AMKR has been denied billions of Hryvnya in VAT returns that the Ukrainian government grants to metallurgical enterprises (Jan Jouet, then CEO of AMKR, cited in Andryushenko 2010b, Delo.ua, 14 April, 2010, Gavrish and Ageyenko 2008, Stetsun 2010). Indeed, the VAT debts by the government amounted to Hr 3,5 billion (the equivalent of around \$500 million) as of May 2010 (Starkov, the CEO of the AMKR, interview to Umanskiy (2010)).

Meanwhile, the AMKR launched a voluntary retirement programme. At the beginning of 2007 there were 4,000 less workers than when AMKR had taken over the enterprise (Delo.ua, 25 January 2007). The number of workers continuously decreased, reaching 37,000 workers in 2010 (AMKR employee, interview; Starkov, AMKR CEO, interview, cited in Lavrov 2011). The union interpreted the retirement programme as lay-offs in a hidden form: "We do not see any violations of the Labour Code, but we believe they are stripping us of our rights". In this context Bobchenko repeatedly encouraged workers to appeal to the SPFU and the union's 'strong ally', the SPFU's Head, if no compensation is provided to workers (ibid). This indicates that, when regarding the issue of lay-offs, the union's strategy remained the same as before, relying on the lobbying of the SPFU.

Lay-offs allowed some further increases in wages. The new 2007-2008 collective agreement was signed within two months and envisaged three stages of wage increases making a total 22% increase in tariff scales in 2007 (Baygush, AMKR Labour and Personnel Director, address at the 2008 AMKR labour conference). Also, the collective agreement envisaged an increase in social payments to the union of up to 0.45% of the wage fund (as compared with the 0.3% set by law) (AMKR 2006i). This improvement in

union-management negotiations indicated that the trade union and AMKR management had established an ongoing dialogue:

"[b]oth parties learned to understand each other. After the tripartite agreement was signed, which regulated all controversial points relating to the interpretation of certain clauses of the social chapter, trade unions and the owner moved to constructive dialogue and social partnership" (Bobchenko, AMKR RUC's president cited in Belik and Bondarchuk 2007).

"We should not only listen to, but also hear each other [...] It is necessary to discuss jointly, to voice the controversial points exactly in order to exclude them in the future" (Bobchenko, AMKR RUC's president, cited in AMKR 2009).

As Bobchenko stressed, the relationship between the enterprise's owner and the RUC were based on the principle of permanent readiness to engage in constructive dialogue.

The Decline in the Union's Leverage During the Financial Crisis of 2008-2009

In 2008 the international financial crisis hit the Ukrainian metallurgy sectors quite hard and AMKR declared cuts in its production volumes (UNIAN 2008a, b). In response to the crisis, a November 2008 Memorandum of Understanding between the Cabinet of Ministers of Ukraine and the Metallurgy and Mining enterprises was signed. This Memorandum promised preferential treatment of the metallurgy enterprises during the crisis on the condition that no lay-offs would take place and purchase and sale conditions established during privatisation would be renegotiated (Cabinet of Ministers 2008). The Memorandum was valid until April 2010, following two extensions. During the crisis, wage increases at AMKR were frozen, but social payments to the union continued. In spite of the Memorandum, the SPFU continued to publicly threaten to revoke the privatisation of Kryvorizhstal due to the non-fulfilment of different investor obligations attached to the purchase (e.g. UNIAN 2008c, Gavrish und Ageyenko 2008).

In response to declining production, AMKR management decreed a reduction of the working week to three days in mid-2009. This was supposed to affect approximately 18,000 workers. The union declared a protest in front of the administrative building, but cancelled the protest at a later date (Belik and Khomenko 2009). The union again appealed to the SPFU, whose Head had changed by this point. In its declaration to the President and different authorities, the union not only pointed out that the decree violated the provisions of the collective agreement, the Memorandum and the social obligations of the AMKR purchase agreement, but it also argued:

"OJSC AMKR is an enterprise forming a company town, the substantial decrease in wages funds in the conditions of the skyrocketing prices for food and consumption goods will lead to the deterioration of the payment of communal expenses and reduce the income from the obligatory payments to the budget and non-budget funds. As a consequence of this it will affect the payment of pensions and wages to workers of the public sphere" (Bobchenko, AMKR RUC's president, interview to Belik 2009).

The AMKR trade union also filed a lawsuit and won, meaning that management's decree was cancelled (Belik 2009). However, with the crisis and changes in SPFU management in 2008, the union's leverage started to waver. The acting SPFU Head, Parfenenko, negotiated with AMKR management, asking them to cancel the decree (SPFU 2009). However, at the same time, the SPFU signed an agreement with the AMKR – this time without the trade unions - according to which the fulfilment of the owner's obligations set in the purchase and sale agreement including wages were postponed until 2011 (Starkov, the AMKR CEO, interview cited in Lavrov 2011).

At the end of 2009, the trade union demanded further wage increases in line with those set in the sectoral agreement for the metallurgical sector, but even wage increases set for November 2009 and January 2010 were postponed to the following year (Belik 2009). Finally, the owner agreed to give wage increases, but only in line with those set in law, no longer considering those set in the sectoral agreement. AMKR management argued that any further wage negotiations should be delayed until the court issued its verdict on the overall, broader wage dispute over minimum wage. At this time the Constitutional Court questioned the legality of recent statutory increases in the minimum wage made in the run up to the Presidential elections by the party in power. The AMKR RUC again pressured the SPFU to intervene, but the SPFU had already signed a new agreement with AMKR. As the union's cooperation with the SPFU started to weaken, the union began to criticise the SPFU, arguing that the RUC could not:

"[...] agree with the fact that the State Property Fund does not officially advance any revision of the respective points of the sale and purchase agreement that concern wage increases, the preservation of the system of work remuneration and of staffing levels, as well as the construction of apartments [...] The State Property Fund should demand in a tougher manner the compliance with its purchase obligations by the owner, including the application of sanctions in the form of fines" (Bobchenko, AMKR RUC's president, declaration, published in Belik 2010).

Meanwhile, the RUC prepared for 'an uneasy dialogue with the owner' (Belik 2009).

Finally, in January 2010 management decreed wage increases of 11.43% and in the union's view "simply did what any law-obedient employer in our country was obliged to do since 1 January 2010" (Belik 2010). That is, management increased the wages as much as was set in the respective law (ibid). However, as management's wage increases anticipated the increase solely in wage scales, they did not extend the percentage increases to the bonus premium and add-on payments. Such payments and premiums amounted to 30-50% of take home pay (AMKR workers, personal conversations). In March 2010 AMKR management agreed to a 16% increase in both wages and premiums in three steps. However, these increases still lagged behind inflation.

Both the financial crisis and a weakening cooperation with the SPFU shortly before the purchase and sale agreement was to expire, put wages and other achievements, particularly social services, under threat.

"We are looking ahead with fear, at the end of 2010 the agreement between the SPFU and Arcelor Mittal will expire, and our social package will expire. 0.5% [of wages funds for the improvement of social and living conditions] – where have you seen such benefits? It is not in law. [...] And the whole social sphere – they [foreign management] do not need child facilities, nor do they need recreation facilities. This is just about more expenses for them" (Bassarab, AMKR mining department RUC's president, interview).

As the RUC had abandoned workers' militancy before, the union had not developed a strategy to address these issues once the agreement expired.

6.2. The Case of the Kyiv Metro Workers' Union

6.2.1. Enterprise Background

Kyiv metro was established in 1960 as part of the communal property of the city of Kyiv. The enterprise employs around eight thousand workers (Kyivskyi Metropoliten, n.d.). Except for the consequences of the economic recession, which immediately followed the collapse of the Soviet Union, the Kyiv metro has not been as affected by economic recessions as has the Ukrainian economy more generally been (Mazolevich, Kyiv metro RUC's president, interview). The metro enterprise can rely on a stable income from its every day operation (ibid). Since the enterprise has remained public, wage increases were granted to workers in line with the statutory increases. Hence, wage problems for the Kyiv metro workers were less severe. In addition, workers have been provided an extensive social package. The reformed trade union committee (RUC) was awarded a special prize for the enterprise-provided social services that were included in its collective agreement (Kyivskyi Metropoliten n.d., Mazolevich, the President of the RUC, interview). This shows that union-management relations have remained highly paternalistic at the Kyiv metro. Paternalistic union-management relationships seem to be unfertile ground for the growth of conflict.

Kyiv metro workers have been organised in a trade union since the establishment of the metro in 1960. Also, the free trade union of the Kyiv metro workers (ITU) was established in the early 1990s and remains in existence today. Yet the co-existence of both trade unions has not been easy. Their comparison allows some insights into the problem of the co-development of two trade unions during the operational phase.

6.2.2. Formation of trade unions

The aftereffects of the collapse of the Soviet economy reached the metro workers in 1993-1994, when inflation skyrocketed in Ukraine and no sufficient wage increases were granted to workers. The RUC did not react. When workers found themselves in this situation, they raised the voice of the enterprise's labour collective and began to demand that the RUC leadership enter into a collective dispute with the enterprise's administration and negotiate wage increases. The RUC refused (Kyiv metro workers, personal communication), trying instead to convince workers that it was impossible to raise wages at that time, given the economic circumstances (Ditkovsky, Kyiv metro ITU's president, interview). As the current president of the RUC, Alexandr Mazolevich (who was elected to chair the union in 1999) has commented, the leadership of the reformed RUC was reluctant to adapt the union organisation to the conditions of the time:

"They [union leadership] kept giving the administration kisses and hugs [...] fulfilled administration's directives [...] Then a group of people appeared that wanted to live in another way [...] a leader appeared who united them [...] these were mostly miners, and they started to go into other enterprises [...] It is only later the generation of union leaders changed here [in the RUC]" (Mazolevich, Kyiv metro RUC's president, interview).

As this quote shows, this lack of change within the RUC provided ground for the emergence of the alternative union organisation (ibid).

The lack of RUC's responsiveness to workers' demands sparked outrage. The early 1990s were also the years of the miners', teachers', railway and aviation workers' strikes, after which independent trade unions were established. This context undoubtedly influenced the articulation of wage issues at the metro. Train drivers decided to enter a collective dispute with the metro administration without recourse to the existing union. In order to be able to do so, some of the train drivers self-organised, forming the ITU. This very indignation of a group of workers about their RUC formed the background shaping the organisation, identity and role of the ITU:

"[...] trade union a priori – should counteract management [...] it has always been like this that in the course of the development of relations between employer and hired labour, every worker wanted to work less and to be paid more and every employer wanted to get out as much as possible from the worker, to force him to work. So, a worker would produce more for less money. I mean in this sense their interests have never been similar [...] They go in different directions (Ditkovsky, ITU's President, interview II).

These comments are demonstrative of the ITU's self-identification, which was contrary to the RUC's position at the time. While the RUC has identified itself with the whole enterprise (and not with workers alone), the ITU's identification was based on the contradiction emanating from the position of an employer and a hired worker within an enterprise.

Such identification of a union organisation seems self-evident, as trade unions have always been ‘a vanguard’ of employees articulating conflict of interests in relation to management (e.g. Hyman 1975). However, within post-socialist settings, particularly in the early 1990s, such self-identification was new. Common practice was that trade unions served the interests of a whole labour collective, including the enterprise management (Chapter III, Mazolevich, Kyiv metro RUC president). In the RUC, workers in managerial positions remained members of the trade union, and union leaders ‘kept giving the management kisses and hugs’ (Mazolevich, Kyiv metro RUC’s president, interview). This same unity of interests was viewed as problematic within the ITU:

[...] how can one protect a plant director and a hired worker simultaneously? The plant’s director’s interest is to punish the worker in one way or another; the interest of the worker is to get bonuses. How can this equation be solved and the interests of both the director and that of workers be met simultaneously?” (Ditkovsky, Kyiv metro ITU’s president, interview II).

The manner in which the ITU identified itself clearly differed from the approach that continued to be articulated in the organisational phase by the RUC.

The differences in identity characterising the two trade unions are also demonstrated over the course of the further development of the conflict over wage increases. Metro workers filed a collective labour dispute against the metro administration and court hearings began. Throughout the court hearings the leadership of the RUC represented the interests of the Kyiv metro administration (Ditkovsky, ITU’s President, interview I, Kyiv metro workers, personal communication). No immediate solution appeared through this forum and metro workers, therefore, declared their intention to go on strike. At that point in time strikes were prohibited, however, as the dispute seemed irresolvable, workers used the threat of strike as the last possible means to enforce their demands. “I have never been in favour of strikes, but I had to deal with that because it was the decision of the workers’ collective and the last possible means of the dispute resolution” (ibid). In response to train drivers threatening to strike, metro management partially met workers’ demands. The strike was cancelled before it started.

As a result of the conflict, the ITU found itself in a confrontational relationship with management. Additionally, the ITU criticised “the monopoly of the former official federation of trade unions that remained in place [and tried] with all their efforts and all opportunities to prevent the establishment of independent unions [...]” (Ditkovsky, Kyiv metro ITU’s president, interview II). As the ITU criticised the RUC, its relationship with the RUC was also characterised by confrontation. As the ITU’s activities presented a challenge to the reformed union’s work, the union naturally prompted counteraction from the RUC (ibid). As each of the unions perceived its role within the enterprise IR

differently, it was not possible for these trade unions to develop a joint position within the enterprise. Intense inter-union conflicts became the main consequence. Although this confrontation between both trade unions was an expression of the different grounds, on which both union organisations based their activities, in addition, as a result of the ITU's oppositional stance in reference to the wage-related conflict, a subsequent conflict developed between the ITU and the RUC.

The operation of the ITU

After the establishment of the ITU, the union leaders demanded to be included in collective bargaining. Their demand was rejected by the RUC. Without representation in collective bargaining and other commissions, the ITU was unable to raise or articulate work-related issues including wages. This significantly limited the ITU's role at the enterprise. Thus the ITU focused solely on taking concerns and cases of unjust treatment of individual workers to the metro administration and to the courts. Workers who were members of the RUC started to come to the newly established union for help. Despite appealing for and receiving assistance in their cases, workers still refused to join the ITU, even when their cases were settled in their favour. This orientation towards the workers' individual grievances at the metro made further confrontations between the ITU and both the metro administration and the RUC inevitable.

Subsequent confrontation with the management and the RUC, provoked by the emergence of the ITU, resulted in the metro management putting targeted pressure on the ITU leaders and members and, as a consequence, there was considerable membership fluctuation. At the peak of such pressure (when the ITU had 600 members) 8-10 members started to withdraw from the union daily (Ditkovsky, Kyiv metro ITU's president, interview II). At the end of that period only 64 members were left in the union. The pressure on union members forced the ITU into a struggle for recognition, while the pressure exerted on the ITU itself compelled the union to direct its scarce resources and energies to the organisation's survival instead of focussing strictly on the further development of the union and the protection of its members.

Facing such a situation, the ITU mobilised its members through protests and filed several lawsuits with law enforcement agencies. Ditkovsky himself went on multiple hunger strikes. Solidaristic aspirations were expressed when other independent trade unions, such as the miners' and railway workers' ITUs, declared their intentions to organise protests in support of the Kyiv metro ITU. It was only after these joint

solidarity strikes that the ITU was given recognition and its existence at the metro was accepted (Ditkovsky, Kyiv metro ITU's president, interview I). Eventually it reached a stage at which the ITU was no longer "just existing but fighting" (ibid). The ITU could no longer be ignored and began to increase its membership.

While open forms of sabotage against the union had stopped, opposition then took on more latent expressions. If workers decided to remain ITU members, they were continually threatened with dismissal and were subject to more frequent involuntary reassignment (confirming their skill grade) compared to the rest of workers (Kyiv metro workers, personal communication). Workers were promised a break from the reassignments, if they terminated their membership in the ITU. This 'offer' was accepted by train drivers, as they could be reassigned to such an extent that they could no longer enter their workplaces. After having grown to 121 members, the growth stopped abruptly (Ditkovsky, Kyiv metro ITU's president, interview II).

This low number of members meant that the ITU's resources for further organisational development were very limited. As the establishment of the ITU had started from scratch, none of the resources (organisational, material or financial) were available upon its establishment. Members were few and hence, dues did not amount to much. All other resources envisaged by the law were denied to the union. Resources needed to be accumulated in the day-to-day work of the union through increasing its membership. However, this was hardly possible under such pressure, as described above. Resource constraints created a significant burden for the newly established ITU even once open forms of putting pressure on workers stopped.

Additionally, the exclusion of the ITU from collective bargaining meant it had no opportunity to advance its demands in relation to such issues as wages. Repeatedly the ITU's leaders asked Mazolevich to establish a joint union negotiating body in order to negotiate the next agreement together.⁶⁹ Mazolevich repeatedly refused. The union leaders organised several pickets in front of the administration's office building and launched a discrimination case with the Constitutional Court of Ukraine. Finally, more than a decade after the establishment of the ITU, both unions established a joint negotiation body aimed at negotiating a new collective agreement. Following this, the RUC signed a new collective agreement with the administration on its own, thus circumventing the joint negotiation body and the ITU (Ditkovsky, Kyiv metro ITU's president, interview I). As this instance indicates, although the RUC included the ITU's

⁶⁹ The establishment of this joint union body is envisaged by the law in cases where more than one trade union exists at an enterprise and aims to allow all trade unions access to enterprise bargaining (Chapter IV).

representative into the negotiations, the RUC still sought to preserve its exclusive jurisdiction over enterprise-based IR.

This overall situation limited the potential activities of the ITU to those of legal function only. The union could do no more than push management into enforcing labour law at the metro in instances, when it had violated Ukrainian legislation. For example, the metro management forced workers to buy their own work uniforms despite this being a violation of the law. Another example emerged when legally set days off were cancelled by the metro management and employees were forced to work on weekends. Many similar examples can be cited and in this way the ITU was able to prevent the enforcement of managerial decrees by successfully enforcing the law instead (Ditkovsky, Kyiv metro ITU's president, interview). However, although members of the reformed RUC came to the ITU with questions and requests for help, they still refused to join the ITU in return for its assistance.

The RUC's Operation

The existence of an alternative union and the inter-union rivalries pushed the RUC's leadership to develop certain strategies to maintain their position of leadership (Mazolevich, Kyiv metro RUC's president, interview). With the election of Mazolevich to the chair position at RUC in the late 1990s, the agenda was quickly reformulated in terms of two key points: wages and recreation (ibid). Although the metro administration and RUC had both signed a collective agreement, the contents were largely limited to social benefits. The RUC was awarded a special prize for enterprise-provided social services that were included in the collective agreement (ibid, Kyivsky Metropolit n.d.). However, in reference to wages, wage increases were not regulated in the collective agreement. The RUC had negotiated over wages as a part of the collective agreement, but it was not until 2005 that statutory wage increases were copied into the collective agreements of the Kyiv metro (Kyivsky Metropolit n.d.). The RUC had not considered wage issues to be the main point of negotiations because wage increases were set in law. Thus, the RUC had allowed management to control wage increases accordingly. This indicates that the RUC leadership was slow to adapt to the changing context and practices in terms of local level collective bargaining.

When considering wage and social benefit issues, Mazolevych faced two different problems at time. Firstly, union leaders had lost any protection of their roles since the collapse of the social system under the Party's control. Now when union officers are not

re-elected to union positions, they normally go back to work at the metro. Employers are legally obliged to provide these former union officials with work, however, during their time working for the union, they often lose their work-related skills and accreditation:

"None of our union leaders is protected. None. For example, take me. I am a full-time union officer. I have been elected for five years. In five years I will run for elections again. [...] But what afterwards? I have not reached my pension age yet. So what next? Next I go back to metro work. I used to work for 30 years at the metro and now I will have to beg our boss to find work for me. That's all. [...] After spending 15 years here [in trade union] you go back into the metro tunnel as an unskilled worker. You are going there as a strong leader of collective. But you're not an engineer any longer [...]" (Mazolevich, Kyiv metro RUC's president, interview).

This vulnerability of union presidents is particularly noticeable, when the union has to (dis)approve some managerial decisions having negative consequences for workers:

"Here we go. The administration issues a decision and sends it to the trade union committee – approve the decision on the cancellation of the add-on premium. But excuse me, 30% of the wages in premium is not so little money. The union leader calls the meeting of the union committee. At the meeting they make a decision to disapprove the decision, vote. He [union leader] writes down the decision and submits to the administration. The boss says [to him] you failed to convince workers. Let us organise a joint meeting of the administration and union committee. They come together, here is the management, here union leaders. They vote for the same issue [the cancellation of the premium] and all trade union leaders raise their hands, yes, we approve, cancel [add-on premiums]" (ibid)

In this situation, a body of lawyers was needed in order to protect union leaders. Also, Mazolevich suggested electing workers of pre-pension age to chair union organisations at different levels and to take a mediatory position between workers and the administration:

"[...] let's elect people 55 years old for presidency positions in the union. Because he will spend 5 years here and once he reaches 60, he can go on pension. He can hit the table with his fist and his feet without worry, say whatever he wants to, insist on things. And the young leader – he will struggle and struggle, and will be eaten up by the administration. And I feel sorry for him, so sorry, as for my own son [...] and every union leader should make up his/her mind - either he is going together with you [workers] or with the administration. And as we used to say in the Soviet times, fulfil their directives. In such cases I say one should be as the Jews - run with the hare and hunt with the hounds [...] the wolves are sated and the sheep intact [...] there is no other way possible [...]" (ibid).

These citations demonstrate that the union operationalised its representational role by trying to satisfy the needs of both workers ("sheep intact") and management ("wolves are sated") in a way that does not significantly disturb or leave any one party angry. Confrontation with management was still inappropriate in the eyes of the RUC. Due to the RUC taking this stance, 'worker representation' has been realised through the union 'veto rights' and legal actions where necessary: "Because the law of Ukraine unanimously states that if an employer does not fulfil his or her obligations we [trade union] have the right to take him/her to court" (ibid). However, during more than one and a half decades of the Mazolevich's presidency, the RUC has been involved in only two labour disputes (ibid). This indicates that the Kyiv metro RUC has only rarely utilised the available institutional mechanisms of worker representation.

The second significant problem for the RUC was resource distribution within the RUC itself. The RUC leadership claimed that there were not enough resources to finance the basic activities of the union. More than 45% of the union budget was spent on recreational activities, although much of the expenses on recreation were additionally financed by the enterprise administration (to the sum of over two million Hryvnya) and social security fund. As Mazolevich notes, “[...] every 15th [worker] has a chance to go on holiday, either at a recreational facility, or receive a holiday voucher, or [go to] a holiday resort” (ibid). The union covered 70-90% of the cost of holiday vouchers. Another 40% of the union income went to staff wages and material assistance to workers. The rest – 15% - was transferred to the sectoral union. With this structured distribution of the RUC’s income, no funds were left to cover any other union activities, including a strike fund. As Mazolevich himself claimed, “let’s say one strikes tomorrow. Stop the metro – one has to feed all workers. But where could the RUC get so much money?” (ibid). However, the issue of resource redistribution, including a reduction of the union funds spent on recreation was never considered.

As a way to improve the financial standing of the RUC, the union’s president believed it was necessary to undertake commercial activities (Mazolevich, Kyiv metro RUC’s president, interview): “[...] if we [trade unions] were allowed to make profits, we would earn some money and save this money and at least provide people with some protection”. However, obviously any commercial activities that became fundamental to the survival of the union would turn trade unions into another type of organisation.

6.3. Discussion of the Cases

The cases of the AMKR union and two metro workers’ unions were chosen to reflect on union operation following the primary, organisational phase of their formation. As the unions’ specific operational strategies described here have demonstrated, each union developed a different understanding of what worker representation meant and how to go about increasing union representation.

6.3.1. Union Strategies

At AMKR, worker representation was manifested in two main ways: workers’ wages and social benefits. The strategy of the AMKR RUC was necessarily political: almost every time its demands were not satisfied by AMKR management, the union leadership appealed to the SPFU with requests to pressure management into fulfilling its social obligations in terms of wages and social benefits. Against the background of the SPFU’s

repeated threats to revoke privatisation, this political strategy of the AMKR RUC has facilitated more conflict-oriented forms of worker representation. Simultaneously, as union-management dialogue was not backed by pressure through workers but by pressure through the SPFU, union independent organisational capacity to enforce its demands has hardly developed.

In the Kyiv metro worker representation was mainly formulated around the 'social wage'. The RUC understood worker representation as the preservation of the social package, distribution of material assistance and organisation of workers' recreation. With regard to wages, the union's strategy was limited to reminders aimed at the metro administration to raise wages in line with legally set standards. The Kyiv metro RUC operated a strategy, which could be described as paternalistic because of its close cooperation with metro management, thus restricted wage demands were central to the continuing provision of social benefits to metro workers. This strategy has facilitated the reproduction of the traditional form of worker representation in that it has reinforced the exclusively social role of trade unions.

Finally, the Kyiv metro ITU initially formulated its strategy in terms of workers' and employers' conflicting interests. The ITU's involvement in conflicts was most clearly visible on occasions when ITUs have continuously raised the issue of wages. However, as the union itself was not recognised by the employer and could not gain access to collective bargaining, the ITU's attempts to advance its conflict-based forms of worker representation as it was initially formulated were constrained. As a consequence, the strategy implemented by the ITU in the workplace was limited to legal services: the ITU had focused on raising concerns of individual workers with the management.

As this review of union strategies shows, some forms of conflict-based worker representation have been developing during the operational phase of some trade unions. However, where such approaches were developing, they have not consolidated into stable forms of conflict-based worker representation and have been rarely underpinned by the use of independent union organisational strength. In addition, concurrently to conflict-oriented approaches of worker representation, social forms of worker representation as formed under the socialist system of IR have persisted.

6.3.2. Social and Conflict-Oriented Forms of Worker Representation

A commonality amongst all trade unions was that they preserved or developed previously existing forms of worker representation in the form of the union-based provision of social services.

This social dimension of union operation is clearly expressed at the AMKR, where a half of all demands included by the union in the purchase and sale agreement were social demands. Also, when wage increases were frozen during the crisis in 2009, the social service expenses and recreational expenditures continued to be paid out to the union in full. Workers asked the union to include this money in wage increases and stop financing social services. However, the union argued that:

"[...] someone created an artificial situation at the plant, in which the labour collective was claimed to have asked to decrease social and maintenance expenses [in order to free funds for wage increases], including those in the area of recreation. [...] Well, just imagine, how can one abandon the purchase of recreation vouchers, if among the enterprise workers many have to regularly go to a doctor, as they suffer from one or another sickness?" (Bobchenko, AMKR RUC's president, interview to Belik and Khomenko 2009).

This statement by Bobchenko demonstrates how the leadership tried to preserve its status within the enterprise organisation based on Soviet-era structural formulations.

The Kyiv metro RUC operation was based almost exclusively on the preservation of this traditional form of worker representation as RUC's understanding of worker representation included exclusively social benefits. Mazolevich himself saw his task as protecting the scope of social services that the metro workers were provided with: "[...] I feel that we will have to fight for preserving the same social package that we had and still have nowadays more and more often. We have to" (Mazolevich, Kyiv metro RUC's president, interview).

While this provision of social services indicated the path-dependent development of both RUCs, this same provision of social services was also common to the ITU at Kyiv metro. However, it was only in its operational phase that the ITU turned to provide discounted holiday vouchers. When compared to RUCs, initially the ITU refused to provide any social services at all. Later on, it included them in its agenda, as workers asked for them more and more often. Thus, all unions discussed above shared this administration of social funds as part of their representative roles. At the same time, while the social services were the source of the RUCs' operation, in case of the ITU this same provision of social services reflected the effects of the concurrent development of trade unions and was, thus, a consequence.

Against the background of these persisting social forms of worker representation, the need for more conflict-oriented forms of worker representation in the case of the AMKR RUC came from foreign ownership. Not only was it clear that foreign management would resort to lay-offs and low wage increases, but it was also clear that foreign management would threaten the union's traditional spheres of social activities by shutting down the enterprise's recreational facilities, for instance. It is at this point in time that the conflict between the RUC and AMKR foreign management began to emerge.

In contrast, due to the metro remaining municipal property and the absence of significant changes in management paternalistic approaches, its RUC did not adapt to changing external conditions until 1999. Management's direct attacks on the sources of union social activities were not as common at the metro as they were at AMKR. Combined with the RUC's reluctance to directly address the problem of necessary wage increases in the 1990s, this lack of adaptability has generally weakened the RUC's position within the enterprise IR. As a consequence, some differences between the actual RUC's agenda and workers' interests came to the fore through the establishment of the ITU. Therefore, the fundamental form of worker representation of the Kyiv metro RUC was challenged after the emergence of the more conflict-oriented ITU in 1994. This, in Mazolevich's words, prompted the change in the RUC leadership and subsequently, the changes in the RUC's work, when the agenda was re-formulated in terms of wages and a social package (Mazolevich, RUC's president, interview).

Conflict Articulation within Union Operation Processes

It cannot be doubted that the AMKR RUC had adversarial relations with management, however, the most antagonistic positions of the union were reserved for foreign management. The union did not consider local management to be interfering in their pro-worker orientation and activities. Local management remained members of the union. Hence, at AMKR, the degree of union-management adversarial relations at lower levels of management was likely to be lesser. This contrasts with the case of the Kyiv metro, where union-management relations were not adversarial to a substantial degree. Importantly, Mazolevich notes that the RUC leadership should take a position that would satisfy the interests of both metro administration and workers. This explains the positioning of Mazolevich in relation to conflicts. He had only filed two labour disputes during the several years of his term in office and no further conflict actions were organised by the RUC. The relationships of the Kyiv metro ITU with both the enterprise management and the RUC were heavily antagonistic. Initially, the union was not even

recognised by the management or the other union. Additionally, as the ITU intervened against the management, whenever they denied workers basic legal guarantees, most confrontation has developed between the ITU and management. As these three cases show, different degrees of conflict have been developing in union-management relations.

Notably, as a result of the political strategy of the AMKR RUC and the paternalistic strategy of the Kyiv metro RUC, emerging conflicts (over wage increases, year-end payments and layoffs at the AMKR, as well as recalculation of wages in line with legal standards at the Kyiv metro) were not directly articulated within their dealings with management. Rather, they were externalised and later politicised, redirected out of the enterprise and to the state authorities. AMKR RUC has continuously approached conflicts using external means and tools, even during the crisis of 2009, when the influence of the RUC started to waver:

"The trade union committee of the enterprise is prepared for an uneasy dialogue with the owner [...] But, of course, a lot depends here also on the labour collective of the enterprise [...] [Therefore, the union committee encouraged workers] "not to lose endurance and self-control, not to become influenced by emotions and not to let them prevail over common sense. No, just say, what's the point of rocking the boat that just started to pick its course after the strongest storm [the crisis of 2009]?" (Belik 2009).

As this quote shows, using exclusively external means of pressure, the AMKR union kept restraining any industrial action. This position of the RUC was solidified when, with the exception of two symbolic protests, protests were declared (e.g. demanding premiums for 2005 at AMKR) but often postponed, later not even taking place at all. Such approaches to conflict articulation rooted in the AMKR union political strategy have necessarily led to the abandonment of worker activism. Under this influence of the RUC, workers believed that "there are no non-solvable conflicts" (AMKR workers, personal communication). As this indicates, workers believe that the RUC will always find an alternative solution prior to organising industrial actions.

The same restraining attitudes towards work-related conflicts were observed in the Kyiv metro, where paternalistic relationships between the RUC and administration have been conducive to externalisation of emerging conflicts in the form of collective disputes. The common approach to the articulation of conflicts shared by the AMKR and Kyiv metro RUCs was that no significant collective actions could be reported in either case.

Against this background, the approach of the ITU to conflict articulation differed significantly in 1994 and afterwards. The ITU articulated work-related conflicts with metro administration directly. In 1994 the ITU had already declared a protest, although

at that point in time such protests were prohibited. Although the solution of the conflict was found before any protests started, criminal cases were launched against the ITU leaders and members quickly afterwards. These same criminal cases prompted further protest by the ITU jointly with those of the NPGU miners. Similarly, the ITU had to engage in protests, when it was repeatedly denied any recognition or access to collective bargaining. When compared with both RUCs, the ITU has constantly resorted to conducting many types of protest activities and increasing militancy.

6.3.3. Worker Representation under the Conditions of Multi-Unionism

In this context, the following question arises: why was the establishment of the ITU successful at Kyiv metro, while it was not successful at AMKR?

In the case of AMKR, whose RUC had addressed the issues of wages and lay-offs, the formation of workers' collective and conflict-based identity has proceeded within the RUC. Due to the positioning of the RUC in relation to the purchase of the steel mill and RUC's political strategy, the influence of the RUC within AMKR was strong enough to facilitate the development of the workers' collective and conflict-based identity within the borders of the RUC. This helped the RUC to block any subsequent development of the ITU. Although some workers organised into two ITUs, against the background of the RUC's strong position within the enterprise, these attempts have not gone far beyond the act of organising the independent trade unions.

In contrast, the loyal attitudes of the RUC towards management and its reluctance to address wage-related problems in the Kyiv metro resulted in the development of workers' collective identity and conflict articulation approaches outside of the Kyiv metro RUC. Recalling the case of LAZy (chapter V), the act of establishing the ITU also led to opposition between trade unions in the case of the Kyiv metro. This opposition between the RUC and ITU was notable during the court hearings over wage increases, when the RUC represented the administration and the ITU represented workers. Also, the ITU initiated and conducted protests, hunger strikes and pickets in order to get recognised. As the RUC had also refused to recognise the ITU, these same protests and pickets were directed against the RUC as well. The refusal of the RUC to allow the ITU into the collective bargaining process prompted further protests of the ITU. These same protests led to more confrontation between both trade unions.

In both cases, the emerging ITUs have been inhibited by RUCs either during their establishment (as in case of AMKR) or during its operation (as in case of Kyiv metro).

The emerging union rivalry had detrimental implications for the concurrent development of both RUCs and ITUs, as this opposition between RUCs and ITUs undermined the development of more conflict-oriented forms of worker representation that came with the establishment of the ITUs.

Inter-Union Rivalry

Inter-union rivalry between the RUC and ITU came to the forefront as the ITU emerged within the context of serious wage problems. As the establishment of the ITU in the Kyiv metro was made possible due to workers' militancy, in order to sustain its militancy-oriented strategy the ITU needed to increase its membership significantly. Also, the ITU needed to be included into collective bargaining, which was at that point in time conducted exclusively by the RUC. However, these are precisely the weaknesses that have been exposed during the inter-union rivalry. Firstly, this rivalry has resulted in pressure on workers to stay away from the ITU, consequently depriving the ITU of opportunities to increase its membership. Secondly, as long as the RUC continued to refuse to include ITU representatives in collective bargaining, the ITU could not present workers' grievances in the bargaining processes. As a result, the ITU's purpose of articulating specific workers' interest could not be realised beyond the court hearings in 1994. As the ITU was excluded from collective bargaining, the ITU concentrated its efforts on workers' individual problems as well as the enforcement of law, limiting the realisation of conflict-based worker representation to a legal servicing strategy.

Due to the different paths of development taken by RUCs and ITUs, both union organisations have operated on different material and symbolic premises. The source of the RUCs' influence at both enterprises was their material and financial resources and their close contacts with the SPFU and management. By comparison, the ITU gained its influence only through repeated acts of militancy. At the same time, the low number of members in the ITU inhibited its capacity to win further conflicts. Consequently, as a result of each type of union being shaped by different conditions prior to its formation, the ITUs had few chances to win inter-union conflicts.

Resources of AMKR and Kyiv metro RUCs and Kyiv metro ITU

The two reformed trade unions discussed above had a great deal of financial and material resources for their operations. The 37 000 members of the AMKR and around 7 500 members of the Kyiv metro RUC ensured a significant financial basis for union activities. Additionally, both unions received some funds from their employers and had

access to social insurance funds. Notably, in the case of the AMKR, huge amounts of money were provided to its RUC for these activities. Under Mazolevich the RUC of Kyiv metro received slightly over Hr 2 million (then the equivalent of USD 400,000) for social activities. Additionally, the Kyiv metro RUC spent over 45% of its membership dues on workers recreation.

In contrast to both of these reformed unions, the ITU of Kyiv metro was disadvantaged in terms of financial and material resources. The membership dues it collected from its 121 members were not sufficient for its continuing organisational development and operation. Also, as the ITU was not fully recognised after its establishment, it was not provided with the same resources as those given to the reformed unions and to which unions were legally entitled. For instance, access to the employer-provided funds was only extended to the ITU after several protests. Finally, financial and material resources have consistently been a significant problem for the ITU.

In relation to the argument that workers' militancy can be the source of trade unions' influence, the victories of the AMKR RUC did not depend on acts of militancy. Bobchenko at the AMKR RUC saw acts of militancy as problematic in view of their implications for the enterprise itself as well as for municipal budgets and public sector workers. The two protests he organised were solely 'a test' for the union, which had not protested for a while. The AMKR mining department RUC's president, Bassarab, observed that only around 5% of workers would support any militant actions, however, this observation has not led the RUC to launch any activities that would target this problem. Against the background of this relationship between resources and militancy, establishing and institutionalising cooperation with the SPFU through official agreement ensured that the AMKR RUC leadership was a more effective and important influence, thus militancy was abandoned. Importantly, against a political background of general privatisation, the RUC's proximity to and close relationships with the SPFU also helped it to strengthen its position within the enterprise without resorting to militancy. Indeed, the AMKR RUC succeeded in raising wages to the highest in the sector. At the point in time two different ITUs were established here, however, as the RUC had a strengthened position through its cooperation with the SPFU, it managed to block the ITUs' development in spite of their proven capacity to mobilise workers.

In the case of the Kyiv metro, its material and financial resources have helped the RUC to preserve the bulk of its membership. Although workers started to go to the ITU with their problems, they have not joined the ITU and have remained members of the RUC. If

workers had withdrawn from the RUC, they would have lost their access to discounted holidays and further social benefits secured by the RUC's collective agreement. At the same time, these same material and financial resources have not helped the RUC to preserve its exclusive jurisdiction in IR. Combined with the RUC's reluctance to directly address the problem of necessary wage increases in the 1990s, this preservation of traditional forms of workers representation has generally weakened its position within the enterprise's IR and allowed the workers' collective identity to develop outside of the RUC. As a consequence, it was not able to block the ITU at the organisational phase. At the same time, similarly to the case of the AMKR RUC, the proximity of the Kyiv metro RUC to the metro management combined with a union-management paternalistic relationship has done more than ensure the preservation of an extensive array of social services. Also, the close relationship with the metro management has helped the RUC to inhibit the ITU's operations. In this way, during the concurrent operations of the RUC and ITU, inter-union rivalry has hampered the ITU's opportunities to grow its material, financial as well as core militancy-based resources. As a consequence, the ITU has had few chances to win inter-union conflicts and establish their participation in the formal IR arenas.

6.4. Conclusion

The varied strategies of political lobbying, paternalistic cooperation with management and sustained militancy and conflict granted different unions some successes in worker representation. Although all the above-mentioned strategies resulted in some conflict-based forms of worker representation and some gains for workers (better wages for the AMKR workers and better social protection and social benefits at both of the enterprises), they have not led to the consolidation of conflict-based representation. An important question to consider is why these strategies have not ensured the development of sustained conflict-based forms of worker representation in spite of the fact that, in some cases, union forms of worker representation have been characterised by conflict.

At AMKR, the political strategy of the RUC has allowed it to preserve some traditional characteristics of IR. Such traditional characteristics have included the unions' social functions and externalised (and hence, non-militant) articulation of conflicts. At the same time, this same political strategy has allowed the RUC to avoid addressing the problem of worker activism and militancy. Not only has this limited the transformation

of the reformed trade unions but, as a consequence, it has also inhibited the development of sustainable forms of conflict-based representation.

The AMKR RUC recognised that the supportive political constellation had helped it to maintain a strong position in IR, including regarding issues related to wages and social services. During the economic crisis, the purchase and sale agreement, with union demands included in its social clauses, was even extended until 2011. Consequently, the obligations of AMKR to the trade union were extended as well (Starkov 2011, AMKR CEO, interview cited in Lavrov 2011). However, at some point the agreement will expire and the union will face a new situation. This is particularly likely given that the AMKR RUC successfully negotiated significant amounts of monetary support from enterprise management: amounts, which exceeded legally set standards (i.e. management provided 0.5% of a wage bill to the AMKR RUC for recreation activities and 0.6% for improvements in health and safety in the workplace). These transfers will likely come into question, when political pressure on AMKR changes. Yet AMKR's future operation and achievements will likely remain dependent on the extent of external political support it may receive. It is not clear whether the union would be able to mobilise its membership, having previously failed to develop militantly. In light of Bassarab's assumption that around 5% of workers would support strikes, the probability of member mobilisation remains low. As the AMKR RUC has not developed any further sources of influence (such as, for instance, the workers' ability to act), conflict-based forms of worker representation are no longer guaranteed to appear, once the agreement expires. This was indicated to some degree, when the influence of the RUC began to weaken following a leadership change at the SPFU, after which the SPFU has no longer been supportive of the RUC's demands.

Similarly, the Kyiv metro RUC's president Mazolevich was aware that more attacks on social services would take place in the near future. The abolition of the management's support for union-administered social services is likely to affect the Kyiv metro RUC more than other trade unions discussed above, because its operation strategy was organised solely around these social functions. Also, the fact that the significant amounts of money provided by enterprise management exceeded the legally set standards makes this outcome likely.

In contrast to the approach of these RUCs, the militant approach helped the Kyiv metro ITU to get wage debts and wage increases paid in 1994. Although the militant approach was present in the operational phase of the ITU, the main conflict was then no longer

about wages. Rather, the conflict had mainly developed around the continuing existence of the ITU. Importantly, given the union rivalry between the RUC and ITU in the Kyiv metro, the ITU there has not been allowed to join in collective bargaining or to sign any collective agreements due to repeated refusals by the RUC. Thus, the issues raised by the ITU, including those of wages, were never a part of collective negotiations. Also against the background of inter-union rivalry, the ITU has not succeeded in increasing its membership to any significant levels, as it has faced pressure from the metro management and the RUC. Such pressure has been demonstrated during the cases of persecution and harassment of the ITU leaders. The pressure put on workers of the Kyiv metro to leave the ITU or continue to face discrimination as ITU members contributes further evidence. Workers' fears about belonging to an ITU stifle the prospects for the development of independent unions.

The active participation of workers is indispensable for the development of sustainable sources of strength in any trade union. In Ukraine, the workers' ability to act is not of the same central importance to the development of RUCs and ITUs. Workers' fears and inability to act have no substantial impact on former official unions where active worker input is not solicited and the source of union leverage is ensured through other means. In contrast, workers' fears and inability to act has had corrosive effects on the operations of ITUs.

As the approaches to worker representation by reformed and independent unions has differed, so has their developmental prospects. The historically rooted monopoly of the reformed unions created unequal and uneven operating conditions for RUCs and ITUs. The unequal conditions affecting the development of RUCs and ITUs, which had been latent in their formative processes, further diminished the prospects for ITUs to establish more conflict-oriented forms of worker representation. Against a background of concurrent development amongst RUCs and ITUs, the RUCs were able to block the operations of ITUs. At the same time, the ITUs were hardly able to influence the strong positions of the RUCs and their operations to the same extent. As a result of this inter-union rivalry, ITUs have remained small and so their advocacy for and capacity to implement new, conflict-based forms of worker representation have reached only a small proportion of the workforce.

Chapter 7. Union Consolidation

Issues that emerge from union consolidation are analysed in this chapter through an investigation of the examples of the RUCs and ITUs at both the mining enterprise, Sukha Balka, and the Zaporizhya municipal hospital. In these cases, the co-existence of both reformed and independent trade unions within one and the same enterprise resulted in a division of the spheres of activities by the different trade unions. This division of responsibilities facilitated consolidation. Additionally, the establishment of the ITUs resulted in the emergence of a new sectoral composition of trade unions. Consequently, these unions provide particularly good examples for an analysis of consolidation.

7.1. The Case of the Iron-Ore Mining Company Sukha Balka

7.1.1. Enterprise Background

Sukha Balka combines two iron-ore mines. These facilities were owned by the Ukrainian financial-industrial group, “Privat”, until the end of 2007. With the dramatically changed economic context, union-management relationships became ‘non-civilised’: very little union-management dialogue was possible, management consistently operated in violation of the law (Pechenin, RUC president, interview) and did not recognise the ITU (Komar, former ITU vice-president, interview). However, changes were provoked when the enterprise was bought by the Russian TNC Evraz Group⁷⁰ in 2007. Management recognised the benefits of a constructive relationship with the trade unions (Sukha Balka Personnel Director, interview). Union-management relations at Sukha Balka improved during this time, keeping open the possibility of work-related improvements.

Presently, two trade unions exist at Sukha Balka. The reformed RUC was established during socialist times, soon after the mines were opened, while the ITU was established at Sukha Balka in 1991 by the former official of the RUC, Mr. Tretyakov, who has continued to chair it to the present day.

7.1.2. The Organisation of Sukha Balka Trade Unions

The process which led to the (re)organisation of the RUC and ITU at Sukha Balka began in the late 1980s. In 1988 only one trade union existed at the enterprise. That union had a disciplinary function. When a worker was caught violating work rules, the union-based

⁷⁰ Evraz Group is a large, ‘vertically integrated’ steel and mining company, which operates in Russia, Europe, Canada, the USA and South Africa. In total it employs more than 110 000 workers (Evraz Group n.d.).

‘comrade judge’ would administer punishment to the worker. The then ‘comrade judge’ Tretyakov (currently the ITU President) believed it was unjust to administer punishments for crimes that were not related to work. Consequently, he looked at each case individually in an effort ‘to protect workers’ (Tretyakov, ITU president, interview I). Yet the trade union did not offer ‘any levers of protection of a labourer’: “I just did not see any [levers of protection]. I could not take them [levers of union protection] and apply (them). I did not have the levers of pressure [...]” (Tretyakov, ITU president, interview III).

Miners’ strikes started one year later. Miners participating in the strikes had asked workers at different mines, including Sukha Balka, to establish an ITU at their enterprise (ibid). Tretyakov initiated a meeting with the miners from his enterprise in order to discuss the state of affairs. Over the course of these ongoing discussions, workers from one of the Sukha Balka mines decided to join the coordinating council of Kryvy Rig miners, when it was established one year later. This became a crucial trigger for later changes within the union, as it prompted debates over union identity and functions:

“Once we started this process [interactions with independent coal-miners’ unions] we began to understand the significance. We saw that their [coal miners’ strike committees] structure was that of a different type of organisation. At that time, we already had a dream to reform or transform our trade union to make it ‘a real’ one. So, we started to understand the essence [...] when they told us, well, you [Sukha Balka trade union] are old-style” (Tretyakov, ITU president, interview II).

In spite of these political developments in the mining sector and in trade unions, the existing Sukha Balka RUC continued to focus the core of its activities on the distribution of televisions, cigarettes and video recorders (ibid). Also, the leader of the RUC at the time continued to approve managerial decrees, which punished workers for violations into the early 1990s (Sukha Balka workers, personal communication). This is apparently what was meant by Tretyakov when he was cited as saying that his trade union was alleged to be ‘old-style’. Meanwhile, in 1991, the nation-wide Independent Miners’ Union of Ukraine (NPGU) was being formed, rooted in the strike committees. A group of activists at Sukha Balka established a strike committee, “[...] uniting out of solidarity with coal miners” (ibid). Against this background, at the next general union conference in 1992 Tretyakov announced his withdrawal from the former official union and the establishment of the ITU at Sukha Balka.

Although Tretyakov and the miners had been in communication with the NPGU, how to build the new union organisation remained unclear to them:

“Even though we had an intense exchange with [ITU of] coal miners, we still did not know how to work and where to go [...] So, we started to work on the establishment of our organisation, developed a protocol and informed the administration about the establishment [of the ITU]” (Tretyakov, ITU president, interview II).

The leaders and members of the ITU focused their efforts on promoting the concept of difference in the positions of the employer and a hired employee, which was central to their representation approach:

"Here comes the 1992 winter, the stabilisation of our organisation. For people it was completely unclear what was happening. We started to promote our idea, started to explain to people, to convince them ideologically. We explained that the director of the mine is our employer and we are all hired employees" (Tretyakov, ITU president, interview I).

Shortly after its establishment in 1992 the Sukha Balka ITU sought to mobilise workers for protests as part of a campaign to secure better salary conditions:

"We were initiators. We mobilised people, organised meetings. The other union [Sukha Balka RUC] did not support us. Even though our membership still remained quite low, we succeeded in mobilising the labour collective and pushing for wage increases" (Tretyakov, ITU president, interview II).

The union campaign rapidly increased union membership, as the demands of the workers were satisfied. While elsewhere workers experienced wage delays, Sukha Balka miners were paid their wages on time.

The establishment of the ITU at Sukha Belka was not taken easily by its management and RUC. It was met "[...] with cries and screaming on the part of the management and of the existing union. Our general director became hysterical and said there would be no independent trade union at the Frunze mine" (Tretyakov, ITU president, interview I). The militant actions of 1992 resulted in increased pressure on workers from management as part of an ongoing attempt to destroy the union. The pressure applied to the ITU by the Sukha Balka management culminated in workers starting to leave the ITU in 1994. One worker had a heart attack, after he was persecuted by management for having participated in previous strikes. The ITU made the harassment of its activities publicly known in an attempt to ensure its further existence and to reduce the pressure. Officially, the law sanctions management for this kind of harassment with various forms of punishment, including criminal proceedings. The case of the worker suffering the heart attack was definitely a clear enough example of such a violation. Management agreed to recognise the ITU, but the pressure continued in more latent forms until the mid-2000s (Tretyakov, ITU president, interview I). For example, as wages continued to be paid to and distributed within a brigade (as compared to the payment of wages to each worker individually), the whole brigade was at risk of being denied their wages, if it had at least one brigade member in the ITU. Workers were also promised higher wages in exchange for their withdrawal (ibid).

The disciplinary function of the other union at Sukha Balka (the RUC) was challenged, as the general context was also being shaped by the activities of the ITU. When workers found themselves in difficult situations, they did not receive any individual assistance

from the RUC (Sukha Balka employee, personal communication). By contrast, the ITU's treatment of workers' individual issues attracted worker-members of the RUC. At the next labour collective's conference popular support was given to the ITU, when the labour collective voted for the ITU to represent the collective in the upcoming round of collective bargaining.

Despite the slow pace of change at the RUC as well as workers' support being given to the ITU, more workers remained members of the RUC than joined the ITU (Pechenin, RUC president, interview). By remaining members of the RUC, workers had access to discounted holiday vouchers and recreation facilities owned by the sectoral trade union (Komar, former ITU Vice-President, interview). At the time, the ITU did not provided any of those services, so workers would lose their access to cheap holidays by withdrawing from the RUC. As the ITU urgently needed more members, it started to recruit workers from other occupations within the mine: canteen workers, sales, repair shop workers, mechanics, etc. As a result of such recruitment, the ITU has expanded its coverage within the enterprise.⁷¹

Deepening of the Differences between the ITU and RUC

In its organisational phase, several important ITU decisions deepened the differences between the ITU and RUC. Firstly, traditionally iron-ore miners have not been recognised within the division of professions as 'miners' but as 'metallurgists'. Even though the conditions of iron-ore miners' underground work were as hazardous as that of coal miners, iron-ore miners were deprived of the full state benefits received by coal miners. For this reason the Sukha Balka ITU joined with the NPGU to demand that the iron-ore miners be economically recognised as 'miners'. Against a background of growing NPGU militancy and influence, the government met this demand (Tretyakov, ITU president, interview I). Now that the ITU was a member of the NPGU (uniting coal-miners) it could intervene in policy-making in the mining sector through the NPGU.

The RUC of Sukha Balka still remained integrated in the structure of the Mining and Metallurgy Workers' Union (PMGU) uniting metallurgists. Miners were organised by the

⁷¹ Meanwhile, the NPGU and ITU have also gone into other sectors in an attempt to establish independent trade unions. In the region of Kryvy Rig, teachers' unions and ITUs at some other enterprises were established by and affiliated with the ITU (Fundovny, VPONU president, interview; Samoylov, the president of the Regional Confederation of Independent Trade Unions of Kryvy Rig, interview). Usually, newly established trade unions immediately came under pressure from management or regional authorities. The ITU Sukha Balka affiliated both newly established unions into their structure. This was expected to grant the newly established trade unions further existence until these union organisations were registered. Later on, as medical workers' and teachers' trade unions were registered, they withdrew from the ITU (Samoylov, the president of the Regional Confederation of Independent Trade Unions of Kryvy Rig, interview).

reformed Trade Union of the Workers of the Mining Industry (PRUP). After iron-ore miners were recognised as part of the mining sector, the relationship between the Sukha Balka RUC and the national PMGU weakened and the RUC “[was] not really happy with its [national union’s] work” (Pechenin, RUC president, interview). Interestingly, the membership of the RUC in the PMGU has never been questioned, although iron-ore mining policy is now a part of the PRUP’s jurisdiction.

Secondly, a distinction was emphasised within the ITU between ‘employer’ and ‘hired employee’. As a result of this distinction, the membership of managerial workers in the ITU was rejected on the ground of being an ideological obstacle (Tretyakov, ITU president, interview I): “As we said earlier, there are hired employees. And a director, he is already an employer. [...] We stick to this European standard” (ibid).⁷² By contrast, the membership of the administrative staff has not been seen as an obstacle to worker representation in the RUC. Managers that maintained decision-making power over wages and working conditions have remained members of the RUC to the present day (Pechenin, RUC president, interview).

7.1.3. The Operation of the Sukha Balka Trade Unions

In 1993 the NPGU mobilised workers in the run-up to demanding the payment of delayed wages and improvement of working conditions in the mining sector. As trade unions demanded work-related improvements, directors pointed the finger at the government’s failure to provide sufficient financing for the mining sector. Consequently, miners turned their efforts to protesting against the government for improvements in industry conditions. This strategy was later recognised by the ITU and NPGU as a mistake. The strikes of 1993 were ultimately seen as ‘director-led strikes’ as, because the union demand to improve the financial standing of the mining sector was viewed by many that these strikes had been arranged by enterprise directors (e.g. Vyshnevs’ky, Mishenko, Pivnyev et al. 1997): “The directors of ore-mining enterprises played their role. [...] And directors could have used this situation [miners’ militancy] for their advantage in order to get better conditions for their enterprises from the state” (Tretyakov, ITU president, interview I). Directors won some gains as a result of these miners’ strikes and so the strikes themselves undermined the legitimacy of miners’ ITU

⁷² The importance of this distinction between hired workers and employers was recognised by the ITU after several seminars, which the NPGU jointly organised with the German miners’ union: “There is such a category in the German Labour Code. [...] We needed this category as well [...] I am guided by the specifics of the German unions in my own work [...]” (Tretyakov, ITU president, interview I).

and the NPGU. These events undermined the ITU's claim to stay on the oppositional side in relation to employers and thus it started to lose the trust of the workers (ibid).

As economic conditions continued to worsen, there was not enough time to prepare for a further mobilisation of workers and to re-build the legitimacy of the ITU after the 'director-led strikes'. This became evident when, within three months, the NPGU and Sukha Balka ITU organised another strike. This strike became another failure:

"The organisers thought workers were ready for another protest and so they mobilised again. [...] September and October of 1994 - the strike of the Independent Miners' Union of Ukraine was such nonsense! [...] People were not structured. They did not know what was going on [...] This strike turned out badly for us. First of all, we did not possess enough financial resources. People did not work, the whole month they were not paid their wages [...] Not a single kopek [...] I saw the situation becoming hopeless and saw the objectives of our strike getting lost" (Tretyakov, ITU president, interview II).

As this quotation shows, the ITU leaders at Sukha Balka expected that workers would continue to further engage in union activities as they had during previous successful actions. Hence, the ITU leadership did not address these problems caused by worker activism. During 1994, while the work at other mines organised by the NPGU stopped as a result of miners' strikes, the Sukha Balka mine remained in operation. A complete work stoppage like that which workers had successfully achieved during the protests of the late 1980s and early 1990s was not possible this time. The quotation below is highly representative of the mood of the time:

"[...] we stayed [protested] underground [...]. The workers for the first shift went underground. It was bizarre – one worker turned his face away from us and started to run into the mine. And 30 workers followed him. We were shocked. It was like a herd of cattle running away. No one joined us underground" (Tretyakov, ITU president, interview I).

This series of failures experienced by the Sukha Balka ITU and NPGU gave mine directors time to take stock and prepare their counteractions. Meanwhile, the persecution of the members of the Sukha Balka ITU intensified. The number of members of the ITU started to fall drastically and the union faced increasing difficulties in recruiting workers: "Heavy repressions started. [...] The management understood that if they destroyed the core, the strongest part of the union, the rest would die by itself. So they started repressions against workers [...]" (ibid). Tretyakov himself was called in and interrogated by the police several times. By 1995, the organisation had been almost completely destroyed (ibid) and the Sukha Balka ITU has never since succeeded in increasing its membership to the level of its historical peak in 1993. This pressure on the ITU was alleviated in 2003, but by then the union had only 750 registered members left.

7.1.4. *The Consolidation of Unions*

The admission of the ITU Sukha Balka to join collective bargaining just one year after the union's establishment was the first sign of the beginning of consolidation for the ITU. Compared to the other cases of ITUs discussed above, this was particularly interesting, as normally ITUs had to struggle for several years in order to gain access to the bargaining process.⁷³ Unlike the cases discussed above, in which the RUCs refused to include the ITUs into the bargaining, at Sukha Balka the RUC was not able to block the ITU's push for inclusion. It was particularly impressive because at that point in time the ITU at Sukha Balka only had two hundred members (Tretyakov, ITU president, interview I). The admission of the ITU to negotiations was due to popular acceptance of the union. At a labour collective's conference, called to decide who would sign the collective agreement, widespread support for the ITU was clear. The quick admission of the ITU to bargaining in turn indicated the strengthening of its positions.

With the signing of the collective agreement, the ITU also gained access to different union-management commissions on work-related issues. As the ITU focused its demands on wages and working conditions, its first move in this direction was to bring to life the existent (but not actively functioning) enterprise-based union-management commission on social affairs.⁷⁴ The ITU replaced the director of the commission with a candidate it was in support of, also inviting the RUC to participate. Having revitalised the work of the commission on social affairs, the ITU demanded a number of work benefits through this forum. It negotiated above-average wages for workers and also succeeded in maintaining payment of full wage scales for workers during enterprise standstills. Meanwhile, the RUC at one of the two mines belonging to Sukha Balka dissolved.

When ownership of the enterprise changed, when Evraz purchased it in 2007, the basis for union-management relationships had been already established. The collective agreement already contained a benefit structure and enterprise-based commissions were already functioning. The task of the ITU remained the same under the new management. It emphasised control over enforcement of the legal and collective

⁷³ In the case of LAZy the ITU was excluded from all bargaining. In the case of the Kiev metro, the ITU was permitted to participate in bargaining almost a decade after its establishment, following a number of protests organised by the ITU, although it was still not allowed to actually co-sign the collective agreement. This exclusion from collective bargaining was common to many newly established ITUs (Akimochkin, Vice-President of the KVPU, NPGU, interview).

⁷⁴ The commission had been established earlier, under the Soviet system of IR, to deal with different social issues relevant to work and used to be under the control of the former official union. However, for quite some time no real commitment existed; the commission had failed to engage in work-related issues and continued distributing holiday vouchers to workers. Indeed, one unusual and noteworthy fact is that before this initiative of the ITU, the commission had been chaired by a person, who was not even employed at the enterprise (Komar, former ITU vice-president, interview).

agreement provisions: “our work is to ensure that the employer complies with the law. If the law is violated we will draw attention to it by creating a difficult situation [...]” (Bondar, ITU vice-president, interview). Just as management recognised the benefits of a constructive relationship with the trade unions, it also recognised the need for a union-management dialogue (Sukha Balka, Personnel Director, interview):

“The union-management relationship is of a working nature. It makes me glad that at present the union builds its position in clear terms of enforcing the law. [...] All of our actions that are relevant to union-management relations must be approved by the union at their initial stage. The decisions are then confirmed through protocols, which require joint approval. [...] In the course of our joint discussions we seek consensus. [...] Equal relations [...] - no one pressures the other” (Sukha Balka Personnel Director, interview).

As the director of the Sukha Balka Commission on Social Affairs noted,

“To say that we work harmoniously is too presumptuous. We mutually cooperate – the issues that arise here are exclusively discussed by all the parties jointly. I mean, we do not have situations where we make a decision and the union simply complies with it. And I have to give thanks to the unions, because they operate in a constructive way [...] so far we have managed to avoid any cataclysms [...]” (Director on Social Affairs of Sukha Balka, personal communication).

From the unions’ perspective the union-management relationships have significantly improved under the Evraz’s ownership as,

“they [the new management] work within the legal framework. They rarely violate laws. In this regard it is easier to work with them. We work according to the law. We also have the collective agreement, all the provisions are fulfilled. Some with delays in relation to wages in particular. Wages are in regular conditions [...] here higher than at other enterprises. So, here we should give the Russians [Evraz] tribute (Pechenin, RUC president, interview).

In 2007-2008 the ITU extended the working standards and scope of benefits beyond those confirmed in law. For instance, the ITU ensured the provision of uniforms and health and safety equipment for those occupations at the mine for which the National General Agreement had not included the provision of uniforms. Also, the ITU established a section with specific benefits for young workers (payments, additional days off and study scholarships). It set the employers’ financial contribution to the workers’ recreation at 0.4% instead of the legally required 0.3%. This increase was supplemented by an additionally negotiated Hr 250,000 (then equal to around \$31,000) for the health care of miners (Collective Agreement of the OJSC “Sukha Balka” 2008).

When Evraz started to restructure the enterprise by outsourcing workers in the late 2000s, the ITU addressed the conditions of workers that had to be outsourced by successfully demanding the establishment of the enterprise-based council on outsourcing. Again, the ITU invited the RUC to participate. The outcome of the bi-partite council meetings was an agreement to include trade unions, when selecting Sukha Balka’s subcontractors. The agreement also envisaged the same wage increase scheme and benefit package to outsourced workers that Sukha Balka workers had. The same four-month redundancy pay was also agreed. As the number of workers employed at

Sukha Balka fell, the unions reached an agreement with management that the wage fund would not be reduced, thus granting some additional wage increases for the remaining Sukha Balka workers (Tretyakov, ITU president, interview II).

As the impacts of the international financial crisis reached Sukha Balka, the length of the work week was reduced (SMIDA 2009). Due to the implications of the crisis, which the whole Evraz Group was faced with, the ITU's demands could no longer be met exclusively at the level of local management. Limits were placed on local management due to the distribution of decision-making power within the Evraz Group. Therefore, the ITU began to seek ways to build their relations with the senior management of the Evraz Group, located in Russia. The ITU called a meeting of the bipartite social-production council, where the effects of the crisis on workers could be discussed. The outcome of the council meeting was a management-union agreement to preserve wage levels and workers' social benefits. In return, the union agreed to accept the reduction of the work week to three days and restrain from demanding further wage increases during the crisis. The ITU promised no strikes provided that management upheld their commitments of the agreement (the minutes of the Sukha Balka Bipartite Council meeting, 10 June 2009).

Despite the recovery of the sector after the crisis in 2009, the Sukha Balka management announced another standstill. The railways that Sukha Balka used to supply its output were blocked, so production remained halted. It was claimed that the blockade of the railways was arranged by an iron-ore enterprise called KZRK, a competitor of Sukha Balka (Andryushenko 2010a, Polonska and Lysenko 2010, Shetinin in interview to Bez Roboty 2010). The railways, as well as Sukha Balka itself, had previously been KZRK's property, because they had been owned by the "Privat Group". When Evraz bought Sukha Balka in 2007, it bought the enterprise without the railways, but had made an agreement concerning the use of the railways. KZRK subsequently claimed that it had never signed such an agreement (Timoshuk 2010; Tretyakov, ITU president, interview III). The management of both enterprises had little decision-making authority on the issue of the blockade. Therefore, the issue had to be dealt with at the level of the owners of the companies, each of whom belonged to different oligarchic groups. The situation escalated in March 2010 when 3,000 out of 3,700 Sukha Balka workers were sent on administrative leave (Tretyakov, ITU president, in interview to Royko 2010) with their wages falling to a third of their previous level (Timoshuk 2010).

Although the RUC would commonly adopt similar stances to the ITU during collective bargaining (as it had in the past) (Tretyakov, ITU president, interview III; Pechenin, RUC president, interview), the RUC and ITU took different positions during this particular standstill. The RUC demanded that the regional authorities solve the conflict within ten days and called publicly for the KZRK to unblock the railways (Polonska and Lysenko 2010). In order to mobilise some pressure on the local government, the RUC announced a protest meeting in front of the city's official buildings to demand an end to the blockade. Seeing a threat in these protests, the mayor did not approve the location the union had chosen for protests and decreed that the protests should take place in a neighbouring park (Pechenin, RUC president, interview). This would have significantly diminished the visibility of the protest. On the day of the protest, the former RUC's president, Burdeyniy, publically demanded that those responsible for the blockade be brought to justice (Polonska and Lysenko 2010, Pavlov 2009). Meanwhile, the construction of the Sukha Balka's own railways was to be finished in two months. In the context of this solution, the protest and demands of the RUC addressed workers' concerns only indirectly, as it was within the responsibility of management to ensure a quick solution. Hence, the protest that the union had organised primarily benefited management.

The ITU refused to support the aforementioned protest, although it did not take a position, neither advising nor dissuading its members to join it (Tretyakov, ITU president, interview III; Pechenin, RUC president, interview). Tretyakov believed that supporting the protest would mean condoning the actions of the management and the union could be seen to be representing the administration's interests instead of the interests of employees (ibid). However, Tretyakov publically expressed the union's belief that it was the responsibility of the regional authorities, as part of their legal obligation, to intervene in the illegal actions of the oligarchs:

"Why did we intervene in the situation? [...] We are concerned by the lack of compliance with the Law of Ukraine regarding mining work. In accordance with this law our demands for a 5-day working week starting from October 1 [2009] as well as wage increases should be implemented, but are threatened not to be. The problem with the supply of the iron-ore is not allowing us to realise our aims. Our members cannot pay their communal expenses and pay back their loans as well as support their families" (Tretyakov, the ITU president, cited in Pavlov 2009).

During this conflict the ITU concentrated on the enforcement of the legal and collective bargaining provisions. This worked to ensure that negotiated wage rates were paid during the standstill. In May 2010 Sukha Balka completed the construction of the new railway and the conflict came to the end. Both trade unions then returned to wage negotiations.

7.2. The Case of the Emergency Doctors of Zaporizhya

7.2.1. Medical Sector Background

The public sector was severely hit by the collapse of the socialist economy. A constant lack of sufficient financing, an urgent need for reforms as well as a severe lag in the modernisation of hospitals and equipment have characterised the medical sector since the early 1990s (Baranova and Paraskevich 2010, Belka 2010, Paraskevich 2010). The medical sector's predicament not only stems from underinvestment, but also because financial allocations from the national budget do not reach hospitals, before some resources have ended up in the hands of corrupt officials (Panasenko, FTUMWU president, Interview II). The Health Ministry is sometimes pejoratively called 'the Commercial Ministry' (ibid). Consequently, public sector workers have suffered a severe deterioration in their working and living conditions. Their monthly wages remained extremely low (around 100 Euro) and it was clear that medical workers were unable to cover the costs of basic necessities with their wages.

Initially, this crisis in the medical sector offered very negative conditions for union development and reforms. Additionally, a local union struggle on the ground was likely to bring few gains. Many work-related issues directly affecting medical workers (repeated wage payment delays, layoffs and administrative leave) could be solved at the enterprise level. But, many other problems (such as wage levels and hospital modernisation) could not be solved through regular enterprise-based collective bargaining, because medical services continued to be administered and financed in a centralised manner (FTUMWU Congress, 28-29 January 2009, participant observation). Therefore, a strong national union structure was central to the settlement of local problems. The Central Committee of the Unions of Healthcare Workers of Ukraine (CCUHWU) that had been established several decades earlier, has hardly been able to effectively influence the national-level policy-making in the medical sector.

Independent medical workers' unions began to emerge as late as 2000. By 2007 the enterprise-based medical workers' ITUs had united into the Free Trade Union of Medical Workers of Ukraine (FTUMWU). Its ability to function, however, has constantly been inhibited by the lack of resources and competition with the CCUHWU.

7.2.2. Organisation of the Medical Workers' Unions in Zaporizhya

The union committee of medical workers of the Zaporizhya clinical hospital (the predecessor of the RUC) was established in 1965, shortly after the hospital was founded. Since the late 1980s the union has been chaired by basically the same leadership team. The president of the RUC, Ms. Dronova, worked in the union as vice-president during socialist times. Afterwards, she chaired the union from 1992 until 1995 and from 2000 to the present day. As Dronova herself admits, she took over the position because she was asked to do it: "It did not really inspire me. They just asked me to do it. The entire [labour] collective - workers of one or other department - came to me and asked. I resigned [from the position of the union president] in 1995, and I thought to myself, thank God" (Dronova, RUC's president, interview).

This continuity in union leadership did not facilitate reforms in the RUC. Following the collapse of the socialist system, the RUC found its new role in solving socio-economic matters that were no longer sanctioned by the state:

"In Soviet times [...] it was easier to deal with the socio-economic issues that were decreed in a centralised manner. It made our work easier. There were no crises. No conflicts. The state tried to solve the issues at the highest level in a way that affected people as little as possible. But now problems arise, but they all are solvable. One cannot say that we have a problem and there is no solution to it. Any problem can be solved [...]" (Dronova, RUC president, interview).

Being administered centrally, policy-making in the public sector has traditionally been perceived as the arena of government decisions, whilst trade unions are the 'recipients' of decisions (ibid). This quotation clearly shows that the reorganisation of the union's work under the new conditions was confined to implementing state policy at the workplace and handling its implications. As trade unions accepted the inherent restrictions of the government's budgetary allocations, the RUCs saw no opportunities to participate in policy-making and wage formulation. Consequently, the core work of the RUC of the Zaporizhya clinical hospital was organised in terms of interpreting new laws with the help of the city's legal department and the reformed CCUHWU oblast committee. The RUC also transposed new laws into collective agreements (ibid).

The RUC understood the labour collective to be its constituency and thus the preservation of that labour collective (and its unity) under the present operating conditions to be its mission:

"It is everybody's [management and union] task to let the hospital's labour collective work smoothly and in a unified manner. [...] Patients should not know about our problems. [...] Everything depends on the cohesiveness of our collective. [...] At work there is no time [to] have a chat [...] At work it's only hello and goodbye. No time to talk. And in this way [joint leisure-time activities and cultural events] the collective becomes more cohesive [...]" (Dronova, RUC president, interview).

With this commitment to strengthening the labour collective, as far as the RUC was concerned, its strength was in the provision of holiday vouchers to workers and the organisation of leisure-time activities. The RUC's leadership had accumulated significant capacities and experience in terms of this kind of distributive work. When socialism disintegrated, the RUC of the Zaporizhya clinical hospital continued to provide these services on its own. Indeed, as the previous quote indicated, holidays and shared free-time activities helped RUC to ensure the unity of the labour collective.

This RUC's approach to worker representation did benefit workers. However, this same approach hardly had any impact on wages and working conditions. As work-related problems accumulated, the RUC did not see any necessity to confront the head doctor, their employer:

"Many colleagues of mine believe, that if problems arise, the head doctor can solve them personally at the level of the hospital. But we are a communal enterprise of the City Council. The budget of our establishment is allocated by the City Council, once the overall budget is approved by Parliament. [...] We fully depend on it [...]" (ibid).

As a result of the RUC's adoption of this position, worker dissatisfaction grew, as wages stagnated and wage arrears accumulated throughout the 1990s (Zaporizhya clinical hospital workers, personal communication).

At the beginning of the 2000s, some emergency doctors claimed it was their head doctor, who was responsible for the state of affairs at the hospital. They also claimed that more individual protection should be provided to emergency service doctors by trade unions. However, particularly in such critical situations, the RUC refused to confront the head doctor, regarding the existing problems at work, as the RUC saw the head doctor as being 'one of us' (Sydorenko, ITU president, interview I; FTUMWU Second Congress, 28-29 January 2009, participant observation). On the basis of this dissatisfaction, an ITU was established in the Zaporizhya Clinical Hospital in 2004.

The newly established ITU demanded the improvement of working conditions and wages at the hospital by pressuring the head doctor. Also, the ITU offered support to workers finding themselves in difficult individual situations. For example, one doctor was beaten up during work by a drunken patient. Before the establishment of the ITU everyone would say that 'the doctor was lucky to survive' without taking any further action to protect the doctor. The doctor received financial reparations for his injuries due to the initiative of the ITU (Sydorenko, ITU president, interview II). There were many cases of illegal reprimands issued by hospital management being overturned or cancelled thanks to the work of the ITU. It launched and won five court cases on the matter of reprimands. This work brought the issuance of illegal reprimands to a halt

(ibid). The assistance provided by the ITU was more appealing than pure persuasion and attracted other workers to join the ITU.

7.2.3. The Operation of Trade Unions

After submitting official registration, the ITU demanded that the RUC allow it to see the contents of the collective agreement. Once it received the agreement, the ITU saw that the document contained many benefits for workers that were not being implemented (Sydorenko, ITU president, interview I; Udovichenko, ITU vice-president, interview). So the ITU began to push for enforcement of the existing collective agreement. Using this strategy of enforcing existing terms, the ITU succeeded in gaining further benefits for workers, including the procurement of uniforms at the hospital's expense. The emergency service vehicle fleet was renewed with 60 new vehicles and plans for the renewal of the remainder of the fleet were also developed. The ITU also demanded that it be included in negotiations and it joined in the bargaining that same year. The RUC had 8 representatives, while allowing the ITU to have only 2.

During this round of collective bargaining remarkable differences that have characterised both unions' approaches to the hospital's administration and its head doctor became particularly clear. The ITU positioned itself in opposition to the hospital administration and held the head doctor responsible for work-related problems (Sydorenko, ITU president, interview I-III). The ITU aimed to "force the management to work" (Sydorenko's address at the Second Congress of the FTUMWU, participant observation). Concurrently, the RUC recognised that any arising problems are the responsibility of national-level politics and allocations from the state budget (Dronova, RUC president, interview). Therefore, the RUC did not allocate responsibility for hospital-level problems to the head doctor: "It is not about the desires of the management. If there is no money then there is none [...] There should be no confrontation between the management and the trade union [about work-related issues]" (ibid). The RUC's attitude towards the head doctor being a part of the labour collective presupposed an absence of confrontation with anyone holding that position:

"I believe there should be none [confrontation]. We are a huge hospital of emergency service doctors. Our main task is to deliver emergency assistance to the citizens of Zaporozhyya. We should do whatever we can, so that the citizens of Zaporozhyya are assisted on time and in a good manner [...] and our colleagues come to the patient in an excellent mood. The patient doesn't need our confrontation [between the union and head doctor]. If problems arise, we should solve them. God save us from doing it [confronting the head doctor]" (ibid).

Consequently, the relationship between the RUC and hospital management has looked much more 'harmonious' (Deputy Head Doctor, personal communication). The head

doctor and the hospital's management have consistently been open to cooperation with the RUC (ibid, Dronova, RUC president, interview). The emergence of the ITU and its emphasis on bargaining posed challenges for the hospital management as well as the harmonious relationship between the RUC and head doctor, because the ITU saw the hospital's head doctor as responsible for work-related problems.

A year later the agreement was renegotiated and signed for another three years (lasting until 2009). Although the scope of work-related benefits for doctors and medical personnel was broadened slightly, the differences in the both unions' positions and in the way they each established relationships with the head doctor continued to influence both unions' perceptions of the collective agreement. The ITU perceived the agreement as a means to enforce their demands of better wages and working conditions. The RUC saw collective bargaining as a means to confirm the scope of centrally provided benefits in the given hospital at the enterprise level. These differences in the ITU's and RUC's understanding of collective bargaining and their stances in relation to the head doctor prevented both unions from forming a joint position in bargaining (Sydorenko, ITU president, interview II).

As a result of the ITU's activities during collective bargaining, it was labelled a threat. Within this context of pressure directed against the ITU, it became evident that the position of the ITU also challenged the RUC. Dronova complained to the oblast and central councils of the CCUHWU, alleging that the ITU was 'splitting the labour collective' (Sydorenko, the ITU president, interview III; Panasenko, FTUMWU president, interview). Combined with the lack of a unified trade union position in the matters of collective bargaining, this led to the inter-union rivalry and competition. Further evidence is provided in the form of pressure exerted on the ITU by the RUC and hospital management. Members of the ITU and their family members were persecuted and threatened with dismissal, after the establishment of the union. The president of the ITU, Sydorenko, was accused of rape without any solid grounds. The next day he was unwillingly registered as suffering from schizophrenia. He was forced to go to the military service office to be evaluated (Sydorenko, ITU president, interview).

The ITU counteracted such pressures by taking matters to court and appealing to the Prosecutor. The ITU alleged that the hospital management interfered in union affairs (which is prohibited by law). Due to the weak rule of law and time-consuming legal procedures, the ITU staged several protest and pickets. Protest activities were accompanied by an information campaign launched by the union in the city of

Zaporizhya. The campaign aimed to raise public awareness of the situation at the hospital; publicity being precisely the approach that Dronova critically opposed. The effective combination of such tactics nevertheless allowed the ITU to withstand the pressure applied by the management (ibid). However, some workers continued to be subject to pressure, even after the ITU had won several court cases and protests had taken place (Panasenko, FTUMWU president, Interview I). Over time the scale of the harassment did decrease, however, this situation had already warned other workers at the Zaporizhya hospital of the costs of membership in the ITU.

7.2.4. Consolidation of the ITU

Protests and publicity campaigns gave the ITU experience in collective action and also helped it develop its capacity as a militant organization. Meanwhile, it also forced the head doctor and regional authorities to recognise the independent ITU and its militant approach. This recognition facilitated more constructive and dialogue-oriented relationships between the ITU and the head doctor. As Sydorenko stressed, in the beginning the ITU was seen as an enemy (Sydorenko, ITU president, interview I), but then it came to be perceived as a constructive player (Deputy Head Doctor, personal communication). “Of course, the fact that we monitor the actions of our employer does not make him happy, but at least he does not see us as anarchists any more, but rather believes that we really want a better life for our members” (Sydorenko, ITU president, interview I).

In 2007, all employees of the Zaporizhya clinical hospital repeatedly faced delays in the payment of wages, yet the ITU was informed by the municipal medical department that the funds had already been transferred to the hospital. The head doctor refused to answer the union’s inquiries, so the problem could no longer be solved through dialogue with the head doctor. The RUC refused to join the ITU in its demand that wages be paid (ibid). The ITU leadership then took the issue to the municipal medical department. The matter was solved within 10 minutes of the union’s request:

“They made some conclusions and decided that it was easier, if they meet our demands before they have to deal with our actions [...] Even without arranging a PR campaign or an action, we just gave them a call. Why did they agree? Because they knew our union, they knew our strengths and our approaches to the matters. The administration thought it is better to obey the law than to face the problems afterwards, after we generate a conflict around the issue” (Sydorenko, ITU president, interview II).

This quick resolution of the dispute with the head doctor demonstrated the degree of recognition that was now extended to the ITU. The earlier history of more adversarial union-management relations allowed the ITU to later solve some matters quickly

without organising additional protest activities. It became possible for the ITU to refrain from protesting, as the head doctor and regional authorities now reacted more quickly and in a more substantial manner to the issues it raised.

At the end of 2008 the ITU initiated a new bargaining round (Sydorenko, ITU president, interview follow-up). The ITU demanded that health and accident insurance and additional night shift payments be provided to hospital workers. During this same round of collective bargaining the ITU wanted to attract those workers who had remained members of the RUC in order to keep their access to discounted holiday vouchers. Holiday vouchers have been constantly provided by the RUC and hence, gave the RUC an advantage over the ITU, whose negotiated benefits were provided by the administration to all workers. Although initially the approach of the ITU towards the distribution of holiday vouchers differed markedly, Sydorenko started to think about engaging in the distribution of holiday vouchers. As he has noted, the ITU would have preferred to concentrate solely on members' wages and working conditions, however, a complete withdrawal from a practice that had lasted for decades would have been perceived by their members as union weakness (Sydorenko, ITU president, interview). The availability of holiday vouchers was a critical factor in workers decisions about whether to join the union or not. Consequently, the ITU decided to start to provide holiday vouchers as well (Udovichenko, ITU vice-president, interview). Besides from wage increases and work-related improvements, the ITU demanded that 0.5% of the hospital's wage funds be provided to trade unions for workers' recreation, as the law envisaged.

The hospital's management agreed to some of the ITU's demands, but was only willing to sign the agreement, if it included a clause which said that the hospital management would have no responsibility for the implementation of the collective agreement. This proposal was made on the grounds that not all of the funds envisaged for the hospital in the municipal budget were made available to the hospital (Sydorenko, ITU president, interview to Paraskevich 2010). Also, the management refused to include in the agreement the clause on the provision of 0.5% of the wage fund for medical workers' recreation (ibid).⁷⁵

⁷⁵ Earlier the administration had used to include this clause into agreements negotiated with the RUC. Since 2008 funds that have to be provided by employers for worker recreation were not made available to either of the trade unions at the Zaporizhya clinical hospital. The RUC didn't contest this decision, nor did it retreat from such leisure activities which were financed from union funds (Dronova, RUC president, interview). However, since the RUC did not insist on the enforcement of the collective bargaining, the clause could be easily included into the agreement. Now as the ITU controlled the implementation of the collective agreements, the administration refused to include the respective clause in the agreement (Sydorenko, ITU president, interview follow-up).

The further negotiations over subsequent months did not yield results. In response to the hospital management's refusal to include all the conditions demanded by the ITU, the ITU announced protest action. It was going to tie black ribbons to the emergency service vehicles (Paraskevich 2010). This would cause further conflict at the Zaporizhyya clinical hospital public. Shortly before the protest action was to start on the 15 May 2010, the head doctor of the hospital signed the collective agreement, which included all points raised by the ITU, including the two controversial points, with which the administration had not agreed earlier (ibid). The fact that the agreement was signed on Friday night (14 May 2010) at 9 pm shows that the issue became critical for the city authorities and the hospital itself. Once again, the ITU was granted legitimacy and its demands were satisfied prior to the planned protest action.

The Impact of the ITU's Activities on a New Sectoral Composition of Trade Unions

Although the local struggles of the ITU achieved some gains, the ITU recognised that however many good collective agreements it might negotiate, the majority of the problems stemmed from national-level policymaking for the medical sector. The union saw corruption and the lack of legal enforcement and reforms as the root of all the problems that workers faced at the enterprise level (FTUMWU Second Congress, 28-29 January 2009, participant observation). The scale of problems demanded that unions advance their demands at the level of national authorities and the government. In this way, the ITU clearly felt the need to increase its influence at the national level (Sydorenko, ITU president, interview I). The leadership of the reformed CCUHWU refused to recognise emerging ITUs and so has outright refused to interact with ITUs.

In order to be represented nationally, the ITUs needed to establish independent unions in more than half of Ukraine's administrative units. Achieving this threshold would legally enable local independent unions to register a national-level union and allow them to scale their struggle up to the national level. Sydorenko travelled to different regions of Ukraine and sought out medical workers who would make their problems public and push regional authorities to deal with the problems. In response to the efforts of various leaders, more local unions were established across different regions of Ukraine throughout the mid-2000s (ibid; Panasenko, FTUMWU president, interview).

The national branch union of medical workers was finally established in 2007, when several individual ITUs united, establishing the FTUMWU. Crucially, however, these individual ITUs, which acted at the local level, were just emerging and had still not

achieved consolidation. Within this context, the resources that the FTUMWU had at its disposal were not even sufficient to have an office or to hire professional staff to formulate the unions' proposition of reforms. For this purpose, Zaporizhya's ITU started to cooperate with other independent union organisations on the formulation of their reform policy papers, the development of ideas for a health insurance system and the restructuring of the overall health branch. This facilitated the tightening of horizontal inter-union linkages that provided certain foundations for the national union FTUMWU.

Similarly, the RUC recognised that the nature of the problems (and solutions) that medical workers faced could be found at a national level. However, tackling the scale of problems in the medical sector exceeded the mission of the enterprise-based RUC. Since the Zaporizhya RUC had been a part of a broader structure of the CCUHWU, the RUC was (in structural terms) not an autonomous union organisation, as it remained a local committee within the structure of the CCUHWU (Dronova, RUC president, interview). This means that because the Central Committee developed and enforced union policy at a national level, policy development was not handled by RUCs. Local union committees contributed to the activities of the CCUHWU, when they were asked to do so, but there could be no initiatives coming from the RUCs themselves (ibid). This positioning of the RUC of Zaporizhya within the CCUHWU structure allowed the enterprise-based committee to receive certain services (expertise, advice, legal assistance and recreation) from the union's higher levels, but it also restrained its participation in national decision-making processes. Hence, Dronova did not see any way to influence wage negotiations other than through the policy approaches that the CCUHWU Central Committee was taking.

Trade Unions and Workers

In spite of the high degree of dissatisfaction with their pay and working conditions, the majority of medical workers have remained members of the RUC. At the time of this research the RUC had around 3000 members, while the ITU was smaller in comparison, having 500 members. As leaders of the ITU (Sydorenko, ITU president, interview; Udovichenko, ITU vice-president, personal communication) pointed out, workers inherited a socialist mentality. Medical workers are seen as being very 'conservative' (Panasenکو, FTUMWU president, interview I) because the socialist system raised,

"[...] a grey mass of people [...] [who] are very conservative and have been scared for years. The state with its punitive organs and prosecutors turned medical workers into a faceless mass of people in white coats. Every patient report a doctor writes is a letter to the prosecutor - if something goes wrong the relatives will complain. We have a lot of laws on patients' rights, but we have no single law protecting the rights of medical workers [...]" (Panasenکو, FTUMWU president, interview II).

As the conservatism of medical workers was nurtured by their poor status under socialism,⁷⁶ this observation by Panasenko indicates that doctors still saw themselves being a part of a paternalistic system of governance without any means to articulate what they wanted from the system of governance. This could explain why ITUs were slower to emerge in this public sector compared to, for example, teachers, whose independent unions emerged much earlier. Additionally, workers hardly knew about the opportunities they might have to articulate their interests. Also, the ITU leadership recognises that the vast majority of the population have simply never heard of the independent trade unions (Udovichenko, ITU vice-president, interview).⁷⁷ This all aggravated a particularly problematic mentality of Ukrainian doctors:

“Immediately after the collapse of the Soviet Union people were still Soviet. They had no idea what Western Europe was. We lived in a closed country. People came out of the collapse thinking that trade unions were for buying chocolates for the New Year and organising celebrations for children, holiday vouchers, sick leaves. [...] People in the conditions of the tough crisis do not know what trade unions are really for, what their mission and their tasks are. If they had known how they could have changed their lives through active trade unions for the better, the changes would have happened already [...] Without people maturing on the ground no changes are possible at the top” (Sydorenko, ITU president, interview II).

These workers’ attitudes towards trade unions in general were seen as a reason why trade unions were having so much difficulty consolidating (Sydorenko, ITU president, interview II). Sydorenko and his peers recognised the need to address workers’ awareness about the role and functions of trade unions. This triggered the intensive information and awareness-raising activities of the emergency service doctors’ union in Zaporizhyya, a tactic frequently neglected by Ukrainian trade unions. The union concluded agreements with the local newspaper and published an article on the union’s achievements every month and the regional TV channel reported on the activities of the ITU every three months. It was at that point in time, that this research was finalised. This ITU’s campaign was trying to make it clear to workers that it was not the state, but rather workers themselves who were responsible for their well-being and that workers had to take responsibility for their own situations. The campaign was also aiming to help workers identify a new point of reference through the ITU.

⁷⁶ Under socialism public sector workers, including medical workers, were paid much less than production workers because the socialist ideology praised production and manual work. These discrepancies in wage policy still characterise the situation in Ukraine. Medical workers continue to be paid very poorly and do not have any strong rights as doctors (in contrast to patients).

⁷⁷ These estimates of Sydorenko reflect the results of one poll conducted in Ukraine in 2000. According to this poll, 79.9% of respondents could not name a single union association in Ukraine, only 5.8% could name the former official FPU and only approximately 3.5% knew at least one independent trade union (UCEPS 2001). This indicates that the public is unaware of the processes taking place inside trade unions and the different positions of various trade unions.

7.3. Discussion

Two trends concerning union consolidation can be observed throughout the discussion above: an oppositional stance towards employers is held by some trade unions, seeing them as their counterpart; and a cooperation-oriented stance addressing workers and employers as a part of one and the same labour collective. During the consolidation phase, the opposition-based stance was associated in the cases in this chapter with both ITUs. Such orientation of the ITUs was reflected in their identity and mission to protect hired workers as opposed to employers as well as in their efforts to address workers' interests in relation to wages and problems at work, all of which conflict with the interests of management. The cooperation-based approach was associated with the RUCs and their orientation towards workers' interests that facilitate the unity of the labour collective and fall outside the category of work (such as holidays, recreation and material assistance). Yet, how has the concurrent consolidation of these approaches influenced the development of conflict-based worker representation? This section deals with this question of consolidation.

7.3.1. Forms of Consolidation of RUCs and ITUs

The differences in the positioning of trade unions resulted in the consolidation of different union activities. ITUs at Sukha Balka and at the Zaporizhya Clinical Hospital engaged with collective, wage-related problems as well as with individual problems faced by single workers, including the provision of legal advice and legal representation for these workers in the courts. Consequently, these same ITUs engaged in conflicts.

Adopting a different approach, the RUCs in both case studies engaged by providing material assistance and holiday vouchers. As Dronova, the RUC president at the Zaporizhya clinical hospital said, the activities of her union aimed to give workers a greater sense of unity and bring them closer together in order to avoid conflict between workers and management. With regard to conflicts, as Bondar, ITU vice-president at Sukha Balka has noted, "[...] the other [reformed] trade union never creates difficult situations. In fact, its members do not receive any protection in terms of legal enforcement" (Bondar, former ITU vice-president, interview). In addition, workers participating in the case studies indicated that it was difficult for them to get their individual work-related conflict situations solved through the RUC (Sukha Balka workers, personal communication). As one of the workers noted:

W: "I found myself in an extraordinary situation two years ago. I was myself partly to blame for it, but the management never wanted to understand me. And only the trade union [ITU] protected me.

LV: Why didn't you go to the other union [RUC]?

W: Because they [union officers] are useless, don't do anything for us. [...] The union president is walking around, he promises a lot [...] and then just hides. [...] And people saw that the leader is not serious. And here [in the ITU] we have Tretyakov – a very responsible and serious person [...] That's why we prefer to come here. [...] Here we know we have a leader who just cares for us, protects us" (Sukha Balka employee, personal communication).

This quote indicates the persistence of a distance between the activities of the Sukha Balka RUC and workers' grievances, which has formed during the historical development of the consolidation phase.

Collective bargaining practices of RUCs and ITUs

The differences between the RUCs and ITUs have manifested themselves clearly in the area of collective bargaining. At the Zaporizhya Clinical Hospital these differences made it difficult for RUCs and ITUs to develop a joint position for bargaining. Due to their orientation towards labour collectives and their preference for less conflict-oriented relationships with management, the RUCs' understanding of collective bargaining and agreements was limited. In the case of the RUC at the Zaporizhya hospital, Dronova was cited as saying that the issues of working conditions and wages were outside the responsibility of the head doctor:

"it [wage increases or any improvements] is not about [union] influence. [...] It is not about what the head doctor wants or doesn't [...] If we [the medical sector] are financed from the state budget, the head doctor cannot [do anything] [...] What can he [do]? Even if he wanted [...] What can he [do]?" (Dronova, RUC president, interview).

The RUC understood collective bargaining as a process, which reiterated the legal guarantees and a benefit structure centrally set by the government at the lower levels. This could explain why the collective agreement of the Zaporizhya Clinical Hospital contained a benefit structure, such as the provision of worker uniforms, protection of emergency doctors and work supplementary payments, but many of these benefits were not provided to workers. One would expect that a trade union would push for the enforcement and extension of their provision, but the reformed RUC did not adopt this strategy, as it did not consider the head doctor to be responsible for it.

The point is not that the RUCs did not ask management for better working conditions and higher wages. Rather, when they asked for higher wages it was characterised by a non-confrontational manner of advancing demands and an avoidance of conflicts. Given their lack of experience with more confrontational positions, RUCs have been significantly constrained in their capacity to enforce any demands for higher wages:

"We agree [to low wages]. What means agree? [...] What else can we do? We cannot do anything else [...] There exists a [statutory] pay rate for the first grade. From here we dance. To the respective developments at the national level – take inflation or any other increases – we react immediately. And the management goes for this [...]" (Pechenin, RUC president, interview).

As a result of the RUCs' attitudes towards management as well as their lack of ability in terms of conflict-based representation, Pechenin, the RUC president of Sukha Balka noted that they had to accept the employer's offer, as they did not see any means they could use in order to achieve improvements (ibid).

The ITUs took a completely different approach. The ITU at the Zaporizhya Clinical Hospital pressured management to implement contracted provisions and succeeded in getting some benefits provided to workers. Similarly, the ITU at Sukha Balka extended the scope of work-related benefits, setting a better benefit structure not only for Sukha Balka workers but also for those whose services were outsourced. In both cases confrontation and protest actions preceded the assertion of the ITU's demands. It can thus be argued that in these cases the ITUs' orientation towards workers' specific interests and militancy facilitated the consolidation of more conflict-oriented approaches of collective bargaining, in a way that the orientation towards labour collectives of the RUCs did not.

Welfare Activities of RUCs and ITUs

Notably, the agendas of both unions contained some traditional services, for instance, the organisation of recreation, which stemmed from the distributive functions originally allocated to trade unions under the socialist system of IR. Beyond the fact that the institutional structure of Ukrainian IR still provides the incentives for conducting such activities (Chapter IV), recreation was above all, a service desired by the workers. Against this background, however, the common provision of recreation by both ITUs and RUCs takes different forms.

RUCs inherited many recreational facilities, mainly attached to regional and national union committees as well as to some enterprise. The shares of the union budgets spent on recreation show the importance trade unions have allocated to these services compared to other activities. For example, with the exception of the funds provided by employers, Sukha Balka RUC spent 40% of its union budget on such services (Pechenin, RUC President, Sukha Balka, interview). At the Zaporizhya Clinical Hospital the management stopped providing money for workers' recreation in 2008, yet the RUC of the Zaporizhya Clinical Hospital covered this shortfall with a sizeable portion of the union's own budget (Dronova, RUC President, Zaporizhya clinical hospital, interview).

Similarly to the RUCs, the ITUs at both enterprises provided recreational services in order to satisfy the traditional expectations of workers and the resulting demands for

such services. However, ITUs were obliged to do it in order to be able to compete with RUCs for workers support and membership. As the ITUs strived to organise more workers, recreational service provision became a clear decisive factor in the workers' decisions of whether to join a trade union or not. As a result, several years after their establishment, the ITUs demanded the inclusion of a clause, providing funds for this in the collective agreement. In this way, they ensured the access to funds for recreation through law, in order for workers to gain these resources by law rather than RUC membership. ITUs did not spend additional resources from the union budget on the procurement of holiday vouchers, however, the distribution of holiday vouchers was a source of inter-union competition, which particularly challenged the ITUs.

7.3.2. The Concurrent Consolidation of RUCs and ITUs

While the establishment of ITUs in the first emerging conflicts challenged the role of RUCs, the concurrent consolidation of both RUCs and ITUs has still not resulted in the ultimate establishment of conflict-based forms of worker representation. The installation of these forms of worker representation could potentially result from the consolidation of ITUs and dissolution of the RUCs, however, only at one of the two Sukha Balka mines, did its RUC dissolve. The consolidation of these ITUs did not lead to the dissolution of the other RUCs, in spite of the fact that the RUCs were not able to sufficiently represent workers during wage negotiations or conflicts. Also, under the conditions of multi-unionism, ITUs could potentially have had positive impacts on the RUCs by prompting RUCs to ensure workers' representation in collective bargaining and conflicts for instance. As the discussion of the forms of worker representation included above in this chapter has indicated, this was not a common pattern. At both the Zaporizhya Clinical Hospital and the Sukha Balka mine, the RUCs were marginalised in the arena of collective bargaining. In spite of the consolidation of ITUs and benefits extended to workers, at both enterprises the majority of workers still remained members of RUCs, with few workers joining the ITUs. As this finding indicates, although the grip of former official unions was weakened by the emergence of ITUs, these same RUCs have been able to retain a considerable role in IR.

Against a background of remarkable differences emerging between the RUC and ITU in their organisational phases, the establishment and recognition of the ITU challenged the form of worker representation practiced by the RUCs, which excludes active articulation or even recognition of any work-related conflicts. With the emergence of ITUs, RUCs began to lose members, as some workers began to withdraw from RUCs to join ITUs.

First of all, initially the approaches to worker representation pursued by ITUs gained acceptance with those workers who found themselves in specific problematic situations and needed help: “People do not always want to deal with such situations individually. Those who join us are active workers. The rest stays with the other union [...] with holiday vouchers” (Bondar, ITU Vice-president at Sukha Balka, interview). Notably, while collective bargaining benefits negotiated mainly by ITUs were extended to all workers irrespective of whether they were members of a union, recreation and holidays were provided on the basis of membership in a trade union. In combination with the differences between trade unions, the exit of some of workers to ITUs caused competition between RUCs and ITUs. As a result, conflicts between both types of trade unions were emerging in the ITUs’ organisational phase. As the discussion above indicates, these conflicts endured far beyond the union organisational phases. Notably, when the ITU’s relations with the administration became more constructive at Zaporizhya Clinical Hospital, its relations with the RUC continued to be characterised by confrontation, also during the consolidation phases.

Inter-Union Relations

When this first group of workers self-organised to form the ITU, further membership increases were problematic because of inter-union competition. Evidence of the rivalry is provided, for instance, by the fact that after the establishment of ITUs, the RUC of Zaporizhya Clinical Hospital began to complain to the CCUHWU and local authorities including the Prosecutor (Panasenکو, FTUMWU president, interview) that the ITU had caused a split in the labour collective. Also, Dronova took the ITU to the court:

“[...] she [Dronova] continues the negative PR campaign against us as well as suing us in court. [...] For example, she recently accused me of going to France at the union’s expense, to learn from the experience of French workers protesting at that time on the streets. She could not prove that to the Prosecutor, as I have never even been to France!” (Sydorenko, ITU president, interview I).

As a result of this inter-union rivalry, in both of the case studies discussed in this chapter, membership in the ITUs resulted in psychological pressure, dismissal threats and discrimination that were used by the administrations and RUCs in order to prevent the growth of ITUs. Sydorenko, the Zaporizhya Clinical Hospital ITU president and Tretyakov, the Sukha Balka ITU president, were both called to the police station for interrogation for their union activities. Particularly, pressure was exerted on ITU leaders, members and activists, when both ITUs began to grow after their organisational phases. This meant that the ITUs experienced a greater growth in membership during the organisational phase in comparison to the operational and consolidation phases.

Despite such attitudes, ITUs have not regarded RUCs as their rivals:

"I believe there is nothing bad about the co-existence of two union organisations, the traditionally existing and newly established ones. If working conditions improve - then competition emerges. If it is a healthy competition, it leads to improvement in the quality of services. In this way both types of unions prompt each other to do something good for their members. But [...] we are threatened, in particular by the old union [...]" (Panasenko, FTUMWU, interview II).

The ways in which Dronova sought to exclude the ITU demonstrate personality-driven rivalries. The rivalry between the two unions dated back to the personal ambitions of the president of the RUC, Dronova, and the ITU's president, Sydorenko. The ITU constantly invited the RUC to different activities and to join in collective bargaining. In contrast, the RUC took the ITU to court. Also, the RUC commiserated to the ITU because the RUC's leadership knew that the ITU did not possess enough resources for the organisation of free-time activities and events (Dronova, RUC president, interview). Indeed, resources have provided a problem for ITUs.

Resources for Union Development

Although the ITU slowly increased its membership, the bulk of workers have still remained members in the RUC as a result of those obstacles which exclusively hindered the ITUs. The RUC provided leisure-time activities and paid for excursions, cultural events and holiday vouchers from a combination of its own funds and those of the CCUHWU.

The ITUs have not been able to provide any of holiday vouchers to workers during their organisational and operational phases. ITUs had no access to a centralised, collective pool of resources and the money collected in membership dues were not sufficient to cover the costs of all ITU activities. Given the medical workers' low wages (about USD 130) and the fact that only 1% of each member's monthly wage went as union dues to the ITU of the Zaporizhyya Clinical Hospital, this provided only a very small budget for the medical workers' ITUs, which already had fewer members in comparison with the RUCs (Panasenko, FTUMWU president, interview). Due to the higher wages in the iron-ore mining industry, the ITU of Sukha Balka operated from a stronger financial position.

The opportunities for the ITU to provide competent legal advice to workers were also more limited, for example, the RUC of the Zaporizhyya clinical hospital had access to the lawyers of the CCUHWU, while the ITU did not. In contrast, getting the advice of a lawyer or paying court charges, for instance, became a burden to the newly established ITU of Zaporizhyya Clinical Hospital, the budget of which was comprised solely of monthly membership dues. As the ITU aimed to provide workers with legal assistance, it was

they – the local union leadership – that had to get familiar with the relevant laws and identify good solutions and strategies. Similarly, the national ITU structure was dependent on its lower level organisations, emerging in the medical sector in the second half of the 2000s with the founding of the medical workers' national union FTUMWU. In turn, the resources necessary for the functioning of the national union structures came from enterprise-based ITUs.

Notably, a different situation was observed at Sukha Balka where the RUC's position was weaker compared to that of the RUC at the clinical hospital. The RUC of the Sukha Balka has not had the same access to its sectoral union after its relationship with its sectoral union deteriorated, when iron-ore miners were no longer economically considered to be 'metallurgists'. Consequently, it has not had the same advantages that the RUC of the hospital had. By contrast, the ITU at Sukha Balka was assisted by the lawyer of its national NPGU that had itself been established prior to the establishment of the ITU.

Similar to the other cases of ITUs discussed in chapters V and VI, material and financial resources have helped RUCs to preserve their membership in these two specific cases of consolidation. Also, insufficient financial resources have inhibited the operation of both ITUs. However, in contrast to the cases of the concurrent development of RUCs and ITUs in earlier phases of development, resources have not ensured the exclusive jurisdiction of RUCs within the enterprise IR at Sukha Balka and the Zaporizhya Clinical Hospital. Neither in the case of the Zaporizhya Clinical Hospital nor in the case of Sukha Balka have close union-management relationships guaranteed that the RUCs hold a stronger position over the ITUs, as was common in the other cases of inter-union rivalry that were discussed in the earlier chapters.

At the Zaporizhya Clinical Hospital, the RUC has had a harmonious relationship with the hospital administration, although this has not made the union strong. The money for work-related improvements or social benefits and workers' recreation, as has been typically provided to RUCs at other enterprises, was simply not there. At Sukha Balka, 'non-civilised' union-management relationships, as manifested in the management's ignorance of trade unions, have not guaranteed the RUCs a strong position either. Although the ITUs have not completely overcome their resources-related problems, in their operational phase they have been able to affect the close relationship of RUCs and enterprise management to the extent that the relationship is no longer a guarantee that the RUCs are comparatively stronger than the ITUs. As a consequence, the RUCs examined in this chapter have not held the same strong position as those at AMKR and

Kyiv metro, where they were able to inhibit the establishment and operation of the ITUs. At Sukha Balka and the Zaporizhya Clinical Hospital, the ITUs' consolidation was not blocked by the RUCs, as was commonly the case for other ITUs. This enabled the consolidation of the ITUs, even despite the fact that they have remained smaller than the respective RUCs in terms of number of members.

7.3.3. The Impact of ITUs on RUCs

Although the ITUs' consolidation has enabled the development of conflict-based forms of worker representation, the RUCs' higher numbers of members and the preservation of their traditional, social practices of worker representation would indicate that the ITUs have had little impact on the changes within the RUCs.

Firstly, the RUCs' identification with labour collectives that has been clearly observed in their consolidation phases offered little opportunities to establish a conflict-based identity among workers. For labour collectives, the distinction between hired employees' and employers' interests is blurred: the RUCs of both Sukha Balka and the Zaporizhya Clinical Hospital considered managerial staff (including the head doctor) to be a part of the labour collective. For instance, the perception of joint interests of employers and hired employees within the borders of labour collectives were clear at Sukha Balka, when the RUC targeted the state in an effort to find a solution to the conflict between Sukha Balka and KZRK. Belief in the overlap of managers' and employees' interests is explicitly articulated in the words of Dronova, who felt that any opposition-based orientation or conflicts should be avoided in that particular instance.

Secondly, the structural integration of trade unions also provided a difficult context for ITUs' to have an impact on the RUCs. The RUCs in both cases were part of the previously established structure of sectoral trade unions. The RUCs' structural integration helped them to preserve their existence, as they could make use of the experts and facilities attached to their regional and sectoral committees. For example, the provision of legal assistance and the organisation of children's recreation by the RUC of the Zaporizhya Clinical Hospital would not have been possible without the help of the regional committee of the CCUHWU.

At the same time, this structural integration of the RUC also caused them to remain frozen in their traditional positions. RUCs were, in structural terms, not autonomous union organisations. Rather, RUCs were local committees within the larger structure of the sectoral trade unions. This meant that as long as the Central Committees developed

and enforced union policy at a national level, policy development was not handled by RUCs. Local union committees contributed to the activities of the Central Committees when they were asked to do so, but there could not be any initiatives coming from the RUCs themselves. This positioning of the RUCs within the national union structures allowed the enterprise-based committee to receive certain services (expertise, advice, legal assistance and recreational facilities) from the higher tiers of the union structure, but it also restrained its participation in national decision-making processes. A more corrosive situation was seen in the case of the Sukha Balka RUC. The president of the RUC at Sukha Balka noted that the links between the RUC and the union regional committee were weakened, when the sectoral Mining and Metallurgy Union became no longer responsible for iron-ore miners. However, this did not prompt union leaders to change to join the sectoral union of miners.

Finally, the ITUs' conflict-based representation approaches were challenged by a context shaped by a workers' mentality, which had been nurtured by the socialist system and maintained by RUCs through the re-enforcement of formal RUC membership:

"They [workers] got used to thinking that somebody else would do the work for them, not that they should do it for themselves. They used to complain, 'what can we do?' [...] People used to reply that somehow they would survive, let it remain as it is [...] People are afraid of change unless they don't know for sure that the change will result in a better situation. [...] And in order to know it will be better, one needs to dare to make a change. They are starting to realise the necessity of it after something really bad happens [...] it is only then that they would come to us clutching straws. So they came to us, saw how we work and it is only then they start to compare - ok, I went there and they helped me (they would think). [...] Everyone waits for the lord to come [...] This is a slave-like mentality. That's why it is so difficult to build independent unions here in Ukraine. Unless we stop being slaves to ourselves nothing will change and we will keep living like we have" (Komar, the former vice-president of the ITU of Sukha Balka, interview).

This mindset of workers at Sukha Balka was strongly demonstrated during the miners' strikes of 1993-1994, described above. Many workers promised to support the strikes, but retreated when they actually began. The workers' fear of change also caused them to remain members of the RUCs. Within this context, the ITUs and self-organising activities have been negatively affected just as much as the ability for the RUCs to maintain its membership has been supported, because workers had been the members of the RUCs since the socialist period.

7.4. Conclusion

Both cases examined in this chapter showed the relatively quick consolidation of newly emerging trade unions. Unlike the previous cases discussed above, in which RUCs have been able to block the ITUs establishment or inhibit their operations, in the cases of both Sukha Balka and the Zaporizhya Clinical Hospital the RUCs could not preserve their

traditional monopoly in the IR arenas. Especially when it comes to collective bargaining, the RUCs were participants rather than initiators of the processes. This did not mean that the continuing RUCs changed their stances within their enterprises, though at one of the two Sukha Balka mines the RUC did dissolve. The remaining RUC at Sukha Balka and the one at the Zaporizhyya Clinical Hospital continued to maintain their stance and considerable positions in the areas in which they have traditionally possessed expertise, such as organising recreation.

The discussion of the different dimensions of union activities has shown that differences between the ITUs and RUCs at the two enterprises discussed above resulted in the consolidation of the respective unions' approaches to worker representation. The approach by the ITUs at both enterprises was confrontation-based and mainly relied on bargaining. At the same time, the approach of the RUCs at both enterprises was confrontation-free and mainly relied on the preservation of unity and peace within the labour collective. These different approaches to collective bargaining inhibited RUCs and ITUs from developing a joint position in bargaining. Also, these same differences between trade unions made it difficult for RUCs and ITUs to concurrently consolidate their union organisations.

By committing themselves to the representation of whole labour collectives and without any background in more confrontational positions, RUCs have been significantly constrained in their capacity to enforce any demands for better wages and work-related improvements that were not immediately guaranteed by their employers. By contrast, the ITUs pressured management to implement the contracted provisions and extend work-related benefits by means of confrontation and protest actions. In these cases the ITUs' orientation towards the workers' specific interests and their militancy facilitated the consolidation of more conflict-oriented approaches of collective bargaining than did the approaches of the RUCs. With the emergence and operation of more conflict-oriented ITUs, the hold of the former official unions was weakened. Also, RUCs began to lose their members, as some workers began to withdraw from them and join ITUs instead. This resulted in competition and rivalry between RUCs and ITUs.

This rivalry has inhibited the formation and operation of ITUs, as has been demonstrated in this chapter. At both enterprises pressure was exerted on union leaders and members. As pressure was especially exerted on ITU leaders, members and activists, when both ITUs began to grow after their organisational phases, this meant that ITUs experienced a greater growth in membership in the organisational phase than

operational and consolidation phases. Due to inter-union rivalry and conflicts, the access of ITUs to IR arenas and their participation in collective bargaining has been consistently inhibited by the RUCs. Notably, the exclusion of the ITUs from collective bargaining initially sought by the RUCs was preceded by very little use of collective bargaining structures or processes by the RUC itself.

However, in contrast to the other cases of ITUs that have been discussed in this dissertation, inter-union rivalry at Sukha Balka and the Zaporizhyya Clinical Hospital has not prevented the consolidation of ITUs. The access of the ITUs to collective bargaining at Sukha Balka and the Zaporizhyya Clinical Hospital was facilitated through the support of labour collectives. Despite the resistance of RUCs to the inclusion of the ITUs in bargaining, it was precisely due to the support of labour collectives that both ITUs gained access to bargaining the same year or year following the establishment of the union. This offered much better pre-conditions for the consolidation of both ITUs than was the case for the ITUs at LAZy, AMKR and Kyiv metro. As a result, the inability of the RUCs to completely block the ITUs from joining the arenas of IR resulted in a division of the spheres of activities between RUCs and ITUs and has enabled the ITUs' consolidation.

As both RUCs have not received the necessary support of labour collectives, ultimately, close union-management relationships have not guaranteed a stronger position for RUCs than ITUs in terms of access to collective bargaining. The strength of the RUCs' alliances with management was common amongst the cases of inter-union rivalry discussed in previous chapters, but could not be observed at Sukha Balka and the Zaporizhyya Clinical Hospital. Although the RUC of the Zaporizhyya Clinical Hospital continued to maintain their 'harmonious' relationship with management, these relationships have not granted RUCs improvements in wages or working conditions. As a result, they have not granted any powers to the RUC over the ITU. At Sukha Balka, 'non-civilised' union-management relationships, as manifested in the management's ignorance of trade unions, have not guaranteed strong positions for the RUC either. Additionally, by establishing constructive relationships with management, the ITUs have been able to further affect the close relationship between RUCs and enterprise management to the extent that the relationship has no longer guaranteed the RUCs' strength over the ITUs. As a consequence, neither RUC had the same strong position of the RUCs in the other cases, in which RUCs had been able to inhibit the establishment and operation of ITUs. As a result, at Sukha Balka and the Zaporizhyya Clinical Hospital, the ITUs' consolidation was not blocked by the RUCs, as had commonly occurred with

other ITUs. This enabled the consolidation of the ITUs, even though the ITUs have remained smaller than the RUCs in terms of the number of members of each trade union. Secondly, against a background of inter-union rivalry both union organisations of the Zaporizhya Clinical Hospital utilised different structures and activities and thus each of the unions could concentrate on their own separate areas of expertise. The RUCs continued to focus on the distribution of recreation vouchers and to organise the activities that brought members of the labour collective closer together, such as leisure-time activities, excursions, trips and other cultural events (Dronova, RUC president, interview). The ITU did not threaten the RUCs' activities; it has had no strong interest in holiday organisation. Instead, the ITU continued to focus on bargaining, enforcing provisions listed in the collective agreement and individual protection of workers. These are areas where the RUC has not possessed the capacity to challenge the ITU in its consolidation phase. From this perspective, in their consolidation phases the RUC did not pose any threat to the ITU just as the ITU did not pose a threat to the RUC.

Certain implications for the enactment of the institutional infrastructure of IR and for the consolidation of worker representation arise from these cases. Within a context shaped by a lack of ability amongst RUCs, the ITUs' consolidation enabled the development of conflict-based forms of worker representation. The hold of former official unions was weakened due to the emergence of ITUs. However, while the establishment of ITUs has challenged the role of RUCs in the first emerging conflicts, the concurrent consolidation of both RUCs and ITUs has still not resulted in the ultimate installation of conflict-based forms of worker representation through RUCs. At the same time, as higher numbers of members and the preservation of RUCs' traditional social practices of worker representation indicate, RUCs have been able to retain a significant role in IR.

Chapter 8. Union Realities: Cross-Case Analysis

The case study analysis developed in the three preceding chapters investigated changes in union identity and interest constellations, union agendas and forms of union action, and patterns of development of worker representation in terms of union formative processes. In the first pair of cases – the RUC at Lafarge Mykolaivcement and the RUC and ITU at LAZy – the specifics of union identities, agendas, structures, sources of power and relationships with management and attitudes to conflicts were explored in order to identify the goals and the underpinnings of different interest constellations and forms of actions that are developing in Ukraine during the formative moment of the critical juncture. The second pair of cases – AMKR and Kyiv metro - provided an opportunity to examine the concurrent operation of RUCs and ITUs at the same workplace in detail. Finally, the cases of the Zaporizhya Clinical Hospital and Sukha Balka were included in order to investigate specific examples of the consolidation of forms of worker representation. This chapter will discuss the findings from Chapters 5, 6 and 7 relating to changes and concurrent formative processes of RUCs and ITUs in light of the hypothesis and research on post-socialist trade unions.

As successor trade unions were formed in historically specific circumstances, their practices to contain conflicts, active commitment to fulfilling the mandates as social and welfare departments and loyalty to management were commonly stressed in the literature as the premises of the path-dependent reproduction of the previous model of worker representation (Ashwin 1997, 2004, 2007, Bocharov 2001, Clarke 2005, Clarke and Fairbrother 1994, Crowley 2001, Gerchikov 1995, Kabalina and Komarovskiy 1997, Kozina 2001, 2002, Kubicek 2007, Ost 2006, Pankow and Kopatko 2001, Pollert 2000, Vyshnevs'ky, Mishenko, Pivnyev et al. 1997). However, as the case studies show, RUCs decisions not to engage in conflicts then created situations, where an organisational form for conflict articulation emerged outside of those respective RUCs, when the activities of the ITUs were characterised by active involvement in conflicts at a given point in time. This concurrent development of RUCs and ITUs is of central importance for understanding the changes in terms of different interest constellations, union forms of actions and forms of worker representation in the post-socialist countries and in Ukraine specifically.

The types of changes observable during the organisational phase may be drawn, in accordance with Deeg (2001), along on-path and off-path changes in addition to path-dependent conduct. Deeg (ibid: 14) understands adaptations to new situations in terms

of on-path changes. In his view, even during new situations, the specific patterns of constraints and incentives (institutions) still generate the same ‘typical strategies, routine approaches to problems and shared decision rules’ and thus produce predictable patterns of behaviour from actors. Off-path changes are then understood as those adaptations of formal (key laws and regulations) and informal (cultural and normative) institutions which together lead to the creation of a new ‘logic’ and off-path institutional change.

8.1. Emerging Union Paths, Interest Constellations and Interest-Based Conflicts

8.1.1. Labour Collectives and Changing Interest Constellations

Union identity has had a clear and detrimental impact on the development of different interest constellations and interest-based conflicts, because it pre-determined and limited many union relationships with employers and organisational attitudes towards the conflicts. Under the socialist system of IR, worker representation was explicitly understood as representation of the entirety of the ‘labour collective’ including management. Amongst many ITUs considered in this thesis, the continuity with this approach to worker representation cannot be observed.

Identity, Relations with Management and Attitudes to Conflicts of RUCs

The most illustrative case of a union identifying with a labour collective was the case of the RUC of the Zaporizhya hospital: “It is everybody’s [management and union] task to let the hospital’s labour collective work smoothly and in a unified manner. [...] Everything depends on the cohesiveness of our collective” (Dronova, RUC president of Zaporizhya clinical hospital, interview). Similarly, Mazolevich, the president of the RUC at the Kyiv metro continued to see the union role in terms of serving both employers and workers:

“[...] every union leader should make up his mind whether he is with you [hired workers] or with the management [...]. In such cases I used to say –run with the hare and hunt with the hounds [... then] the wolves are sated and the sheep intact [...] There is no other way [for unions] possible [...]” (Mazolevich, the RUC President at the Kyiv metro, interview).

Under the new institutional structure of IR this orientation towards a labour collective resulted in the cooperative and conflict-free approach of RUCs towards management: “[...] there should be no confrontation between the management and trade union. Our joint goal is the well-being of people” (Dronova, RUC President at the Zaporizhya clinical hospital). The RUCs’ orientation towards labour collectives, as explicitly articulated by the leaders of the RUCs examined here, showed that conflicts of interests have been

undesirable, the direct expression of conflicts – “[...] a deviation from some natural equilibrium” (Ashwin and Clarke 2003: 270). As the RUCs repeatedly stressed, work-related conflicts would only endanger the well-being of the labour collective and undermine the operation of the enterprise.

As such cooperative union-management relations were, in some cases, threatening to take the form of ‘over-exaggerated loyalty’ (Kozina 2001) or ‘union subordination’ to enterprise management (Ashwin 2007, Ashwin and Clarke 2003), the RUCs’ cooperative attitudes towards management thus precluded any conflict of interests from emerging within the enterprise. Consequently, conflict avoidance as well as externalisation of conflicts through conflict-resolution institutions characterised RUCs’ attitudes and actions towards conflicts. The finding converges with those of Ashwin (2004) and Kozina (2001, 2009), who stressed that post-socialist trade unions are revealing a clear continuity with past practices of conflict articulation. As Clarke and Fairbrother (1994: 395) have argued, the “[...] traditional pattern of trade unionism and workplace IR proved an extremely powerful and effective means of limiting workers’ needs and containing their aspirations”. Such attitudes compromised any opportunity for independent articulation of workers’ specific interests during situations of conflict.

On-Path Changes in Identity, Relations with Management and Attitudes to Conflicts in RUCs at Foreign-Owned Enterprises

This orientation towards the labour collective was also observed at the slightly more conflict-oriented AMKR and Lafarge Mykolaivcement RUCs, although some changes were observed as well. Local (domestic) management has been a part of labour collectives. The domestic administrative staff of the enterprises were also hired workers and so were affiliated and represented by the union (Bassarab, RUC President at the AMKR mining department, interview). At the same time, it is important to note that foreign management has not been a part of labour collectives. Rather, a foreign management would be seen as ‘a new player’ in enterprise IR, a target for confrontation. The ‘new’ management would no longer believe it was obliged to include the union into certain arenas of IR (for instance, wage or social affairs commissions) or to maintain social facilities and pay for social contributions as used to be common practice.

These changing interest constellations and understandings became one of the stumbling blocks in the relationship between the union and the foreign management at Lafarge Mykolaivcement and AMKR, providing a source of numerous interest-based conflicts (e.g. over wages, lay offs and payments for social and welfare activities). As these unions’

approaches of conflict articulation however showed, trade unions used the external political arenas and political pressure in order to get these conflicts solved. As these trade unions did not make use of or even attempt to develop their organisational strength and collective actions, on-path changes in terms of the union identity were taking place, but the politicisation and externalisation of conflicts through these RUCs were still keeping their union representation practices on their existing path.

Identity, Relations with Management and Attitudes to Conflicts of ITUs

In stark contrast, the ITUs' emergence in situations of conflict naturally resulted in changing interest constellations and interest-based conflicts. The emergence of ITUs during conflicts over wages and working conditions precluded the representation of the entirety of labour collectives. The ITUs identified with workers *as opposed* to the management. For example, as Ditkovsky, the ITU president at Kyiv metro stressed:

"[...] The employer has no influence on the adoption of any decisions in the ITU. This is the major difference [as compared to RUCs]. Trade unions a priori should counteract administration [...] it has always been like this in the course of development of relations between employer and hired workers" (Ditkovsky, the ITU President of the Kyiv metro, interview III).

Similar opposition was demonstrated by the ITUs at the Zaporizhyya hospital, LAZy and Sukha Balka, when taking the issue of unpaid wages up with their respective managements rather than with their regional governments. These ITUs adopted a clear position, maintaining that there are employers and hired employees involved in the employment relationship and that those interests are not identical.

The activities of ITUs in response to violations of workers' rights generated further sources of conflicts related to wages and working conditions. Hence, as shown by the case studies above, the ITUs' emergence and growth in situations of conflict naturally resulted in confrontational relations between ITUs and management at various enterprises. The case studies have revealed that the confrontation between ITUs and management was more far-reaching, when compared to the antagonistic union-management relationships familiar within IR relationships. As Clarke and Fairbrother (1994: 389) have observed, "[m]anagement has shown itself determined to prevent the emergence of independent [union] organization, and has sought to neutralize initiatives by a judicious combination of conciliation and repression". This confrontation between ITUs and management was present in every case study, highlighting how all of the ITUs and their leaders and members were subjected to pressure from management.

The labour collectives had corrosive implications for the establishment of the changing interest constellations and interest-based conflicts in IR.

First, this identification with labour collectives has impinged on the possibility of conflict-based workers' identity to develop. Importantly, labour collectives in post-socialist settings were not a product of workers' collectivity. Regarding conflict-based identities, labour collectives are thus inherently limited organisations; they did not unite workers around the joint interests they may hold in opposition to management. As no clear line is ever drawn between workers' specific interests and the interests of employers, the conflict of interests remained fundamentally compromised within the existing path even under the new institutional system of IR.

Second, although under the conditions of pluralism installed by the new institutional structure of IR one would expect that the involvement of the ITUs in work-related conflicts would ensure the articulation of a growing number of conflicts in formal IR, this was far from being the case in enterprise-based arenas of IR. In law and in practice, the admission of a trade union to different arenas of IR - collective bargaining, for instance - formally depended on the outcome of a conference of the labour collective. At this conference, workers would vote to select the representatives for collective bargaining from the candidates of the various unions. As the majority of workers were organised in RUCs and RUCs' presidents have traditionally organised these votes of labour collectives, consequently, the admission of ITUs to bargaining also depended on the readiness of RUCs to include ITU representatives into bargaining commissions. As the RUCs refused to include ITU representatives into the commissions, ITUs were inhibited in their subsequent operation by being excluded from enterprise-based IR arenas from the very moment they were established.

The capacity of RUCs to control labour collectives, however, had its limits. In those conflict situations (e.g. over wages) in which workers raised the voice of the enterprise's labour collective and in which RUCs had continually chosen not to engage in conflicts in any way, RUCs were losing legitimacy and had no such influence on labour collectives. For instance, precisely in such a situation, the vote of the labour collective provided the ITUs at Sukha Balka and the Zaporizhyya hospital quick access to the IR arenas, enabling their admission to the institutions of collective bargaining and other work-related commissions (Chapter 7). At the same time, RUCs could re-gain the influence on labour

collectives, even after such critical moments of lost support and legitimacy (this issue is discussed in more detail below in this section), as labour collectives could withdraw their support for an ITU after the initial conflict had been solved. In contrast to Sukha Balka and the Zaporizhya hospital, at the Kyiv metro the ITU enjoyed more support from workers when, at one such meeting of the labour collective, it was delegated to represent workers in court. However, the ITU was not supported by the collective during the voting of candidates for collective bargaining.

One possible explanation for this difference between these cases of the ITUs can be in the fact that during the critical moment of dispute RUCs' legitimacy was almost lost, workers' participation in ITUs and their support for the activities of ITUs were high and set-up costs of ITUs low. But workers' participation in ITUs and their support diminished during ITUs' subsequent operational phases, when the set-up costs of ITUs were increasing as a result of management pressure and RUCs were re-gaining their legitimacy through social and welfare activities.

It would then depend on the phase of the union formation, in which the critical moment of the vote of labour collective takes place, as well as on the arena of conflict articulation. At the Kyiv metro the ITU enjoyed support from the labour collective when the RUCs refused to apply to court and the ITU was delegated to represent workers in court, an arena outside of the Metro (when compared to enterprise-based arenas of collective bargaining). Later, during the voting of candidates for collective bargaining, the set-up costs of ITUs had already increased, when subsequent confrontation of ITUs with the management and the RUC, provoked by the court action of the ITU, resulted in the metro management putting targeted pressure on the ITU leaders. As a result of pressure from managements and RUCs, participation in the activities of ITUs has always posed risks for workers. Hence, in order to benefit from the collective protection that could be provided by ITUs, workers had to accept a price for their participation. The threat of pressure and persecution was ever-present.

Meanwhile, the establishment of ITU pushed the RUC's leadership to develop strategies to maintain their position of leadership by expanding enterprise-provided social services (Mazolevich, Kyiv metro RUC's president, interview). ITUs defamed social and welfare activities. As a result, the ITU was not supported by the labour collective during the next voting – that of candidates for bargaining. In contrast, due to the Sukha Balka ITU's demands that it be included in collective bargaining right at the beginning of the moment of dispute (enterprise-based arena) rather than with their regional

governments (an arena outside Metro), at the next labour collective's conference popular support was given to the ITU, when the collective voted for the ITU to represent the collective in the upcoming round of bargaining and before the set-up costs of the ITUs increased. Once ITUs were initiators rather than observers of the arenas-related processes, it was not possible for labour collectives to withdraw their support.

An additional explanation could be the fact that the Zaporizhya hospital is part of the communal property of the city of Zaporizhya; the most likely case for the domination of RUCs, with the hospital's budget (and consequently wages) being allocated by the City Council, strong paternalistic union- management cooperation and hardly any space for wage negotiations. In contrast, Sukha Balka is a privatised enterprise owned by the private company with the wages being an issue of union-management negotiations. However, Sukha Balka used to be state-owned with the same characteristics in terms of union-management relationships and wage situation, when the ITU started to participate in the IR arenas due to labour collective's vote. Similarly, the case of the Zaporizhya Clinical Hospital (with a similar outcome of the labour collective vote for the ITU to represent the collective in the bargaining over wages) does not support this explanation, as the hospital is part of the communal property and subjected to the domination of RUCs, paternalistic union- management cooperation and city budget allocations too. Nevertheless, it was still possible for the workers and the ITU to demand the payment of wages by pressuring the head doctor (instead of the regional government, as in the case of Metro). Alongside labour collectives and the phase of the union formation, the (state or private) ownership of the enterprise was important, albeit its impact was still conditioned on the phase of the union formation and the arena of conflict articulation that the ITUs chose to enter.

The institution of labour collectives thus had a significant impact, when it comes to the changing interest constellations and the establishment of conflicts of interests. First and foremost, labour collectives contributed to constraining the development and expression of potential conflicts of interest between workers and management, thus enforcing the development on the existing conflict-free path. Yet, under the pressure of chronic conflicts, mostly relating to wage arrears, it also provided some opportunities for ITUs to establish their organisational presense. Hence, under the conditions of weak law enforcement, alongside the changing interest constellations and emerging interest-based conflicts, the earliest expressions of conflicts of interest were conflicts over the recognition and subsequent existence of ITUs in relation to the coexisting RUCs within the existing labour collectives.

8.1.2. Union Agendas and Forms of Actions and Activities

Traditional Agendas and Activities: the Cases of RUCs

The differences in union identities discussed above were also expressed in union agendas. Within the context of both the concurrent development of RUCs and ITUs and RUCs weakening legitimacy, some incentives have existed for RUCs to maintain their traditional agendas and approaches. Extensive social and welfare activities (such as ad hoc material assistance, holiday presents, joint free-time activities and, most importantly, recreation and holidays) were instrumental in helping the RUCs to strengthen RUC position and legitimacy within the enterprise-based IR during the operational phase. In addition to the funds normally provided by employers for workers' recreation, all RUCs spent a significant share of their budgets on such activities. All RUCs successfully negotiated significant amounts of monetary support from enterprise management, which exceeded legally set standards, with clauses on the provision of this support in the collective agreements. Kozina (2002) has similarly found that these distributive functions have ranked highly in terms of importance, while the more directly protective functions have been consistently ranked in a secondary position. RUCs were able to ensure additional funds for recreation by means of negotiations with management of even better provisions of collective agreements of social payments to RUCs, with the institutions of collective bargaining being filled with the 'traditional' contents relating to the union social functions.

Despite this orientation being commonly depicted in the literature as union weakness, the case studies have shown that it has been precisely this agenda that has underpinned the RUCs' position within enterprises (as related to ITUs) by means of the preservation of membership numbers and re-gaining its legitimacy. This is evidenced by the fact that, because workers' wages were not sufficient to cover holidays, workers have remained members of RUCs despite their dissatisfaction with the unions' activities in other areas, including such critical areas as wages and representation in conflicts. As the provision of housing, cars and holiday vouchers for the whole family of a worker continued to depend on the worker's membership in the RUC, it did not make sense for workers to withdraw from RUCs despite any feelings of dissatisfaction. As the RUCs' legitimacy was no longer granted from above by order of the Communist Party, persisting with the same strategy of distribution against the background of a drastic decline in wages has underpinned the legitimacy of RUCs during their operation phase, although this reduced the pressure on RUCs to develop their capacities for any independent mobilisation.

Ultimately, furthermore, the welfare-oriented agenda of trade unions strengthened the path-enforcing effects of the labour collectives, as it required conflict-free union-management relations. Possible union-management conflicts could threaten the reliable supply of resources to RUCs even in spite the fact that consistently, Ukrainian laws have obliged employers to transfer funds for workers' recreational activities and additional holiday vouchers to be distributed by trade unions (Chapter 4). The RUCs' continued welfare activities and these paternalistic obligations of management as set in law and collective agreements have not provided rich terrain for conflicts of interests or for mobilisation activities to grow and develop. This was even the case at the Zaporizhyya Clinical Hospital, the most likely case for paternalistic union-management cooperation and stronger social and welfare activities. At the hospital the administration stopped providing the money for workers' recreation in 2008, yet the RUC of the Zaporizhyya clinical hospital did not protest and even covered this shortfall with a sizeable portion of the union's own budget.

By preserving the welfare-oriented agenda and their role as 'the agents of social benefit' (Kahmann 2003), the issue of wages has had a negligible role in the welfare-oriented agenda of the majority of RUCs. This has been clearly demonstrated by the RUCs' consistently compliant positions in terms of wages. For example, at Kyiv metro, the issue of wages played no role at all and was not included in collective agreements secured by this same RUC until 2005. Even when wage rates started to be included in the collective agreement, the agreement simply mimicked the minimal wage increases set by the respective branch agreement. The position of the Zaporizhyya hospital RUC is even more extreme in regard to wage issues; it considered them to be an issue to be dealt with by the politicians at the national level, having little relevance at the local level. Similar to the findings regarding union identity, the manner, in which the RUCs formulated their agenda, thus re-enforced the development of worker representation on its traditional path. This agenda, combined with a lack of capacity to enforce workers' distinct interests, has not been conducive to changing forms of actions. In this way, the agenda of RUCs led them to reinforce and maintain conflict-free approach to worker representation embedded within negotiations and without resorting to mobilisation.

On-Path Changes in Agendas and Activities: RUCs at Foreign-Owned Enterprises

Criticism related to the enterprises' social obligations is particularly likely to be raised after privatisation and especially at enterprises owned by foreign owners (e.g. Samara Research Group 1996, Varshavskaya and Donova 1996). Consequently, the cases of

RUCs at privatised and foreign enterprises are expected to be the most likely cases for the diminishing social functions of trade unions. This expectation has not however proved true in the cases of RUCs at two foreign enterprises - AMKR and Lafarge Mykolaivcement. Both RUCs strived to ensure its continued role of being responsible for social functions and activities and leading to the immense 'social package' of AMKR, including the commitment of the enterprise to ensure the reliable supply of resources to RUCs. The cost of 'the social package' included in the purchase and sale agreement on the initiative of the AMKR RUC at the Mittalsteel-owned enterprise amounted to almost the same amount of Mittalsteel's purchase payment for Kryvorizhstal (Sakhno 2006).

Criticism related to the enterprises' social obligations was raised by foreign owners in both cases. However, consistently, Ukrainian laws have obliged employers to transfer funds for workers' recreational activities and additional holiday vouchers to be distributed by trade unions (Chapter 4). Additionally, the AMKR RUC turned to lobbying the State Property Fund of Ukraine (SPFU), which was responsible for privatisations, to include the issues of even larger welfare-related payments (than those that were legally set through the law) into the purchase and sale agreement as the union's conditions for the Kryvorizhstal privatization. This social package suggested by the trade union shows that the union also strived to ensure its continued role of being responsible for social functions and activities through its participation in every privatisation-related audit by the SPFU. Union-state alliance (at least at the AMKR) and additionally, significant constraints rooted in the workers' traditional perception of the unions' role as being responsible for holiday vouchers and presents seem thus to counteract those affects of the foreign ownership that are likely to target union social and welfare functions.

Although they also reveal strong commitment to social and welfare activities, it is also important to note that these cases do not fully conform to the position of RUC regarding wage-related agenda depicted above. In contrast to other RUCs, wage-related demands and demands for social services, however, enjoyed equal number and priority. Wage increases set in the Sectoral Agreements were wholly insufficient. The collective agreements at both enterprises 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 even the Sectoral Agreement, raising workers' wages to the highest in these sectors. These changes in the RUCs' agendas can be explained by the fact that as a foreign management would be seen as 'a new player' in enterprise IR (and not a part of the labour collectives), it was a target for confrontation. This understanding provided a source of numerous interest-based conflicts. Quite logically, it also led to

changing agendas of both RUCs, without the path of distributive unionism being given up completely.

Aside from the path-enforcing effect of social and welfare agenda, trade unions traditionally used the external political arenas and political pressure in order to get their wage gains, which kept them on the existing path in terms of their forms of actions. Wage increases of the same scale could no longer be sustained by these two RUCs later during their operational phases. As both RUCs had relied on the political pressure before, the unions had not developed an autonomous strategy to address these issues in such situations of weakening political support (AMKR) or even exclusion from the arenas of voluntary regulation of wages (Lafarge Mykolaivcement). At Lafarge Mykolaivcement, this happened when management revised the system of remuneration and no longer believed it was obliged to provide the union with all the information relevant to the wages calculation practices. At AMKR, this happened when both the financial crisis and weakening cooperation with the SPFU put wage gains (and social obligations) under threat. As these unions did not make use of or even attempt to develop their organisational strength and collective actions, the politicisation and externalisation of conflicts were keeping these RUCs on their existing paths in terms of forms of actions.

Militant Agendas and Activities: the Cases of ITUs

In contrast, the emergence of the ITUs during enterprise-based conflicts pre-supposed the ITUs' engagement with issues such as delayed wage payments and wage increases. For instance, the ITUs initiated collective and individual court cases on wage payments, mobilised workers and ensured that the payment of wages was made regularly. As the agenda and activities of ITUs have been dominated by work-related problems and mobilisation acts, this type of agenda and activities has indicated a break with the previous path of worker representation exclusively through paternalistic negotiations or union-management and political alliances.

Yet, during conflicts, ITUs have enjoyed strong support of many workers irrespective of workers' enduring expectations of holiday vouchers from their trade unions and mobilisation yielded results. However, immediately after conflicts were resolved, the protective activities of ITUs have not resulted in the membership of the ITU increasing rapidly and immediately during their operational phases. After receiving ITU assistance, worker-members of the RUC still refused to join the ITU in spite of the fact that their

cases had been resolved in their favour. Even though many workers benefited from the successes of ITUs and turned to them for assistance when they were dissatisfied with the quality of representation provided by RUCs, the ITUs' lack of ability to provide discounted holiday vouchers has led workers to maintain their RUC memberships. When transitioning to the operational phase of trade unions, the number of members of ITUs remained low when compared to RUCs, thus making mobilisation more difficult.

Social-Welfare Activities and Their Implications for New Forms of Actions

Continued adherence to the welfare-oriented agenda by RUCs has had corrosive implications for ITUs. The socialist model, where worker participation in the trade unions was based on the provision of workers with holiday vouchers and obligatory membership of workers in trade unions, was based exclusively on consumption-based (as opposed to collectivity-based) union-worker relationships.

As workers' membership in trade unions still continued to remain consumerist, these consumerist practices had corrosive implications for the development of ITUs, whose structure was built on the basis of workers' collectivity. ITUs depended on workers' participation in protest actions in order to gain recognition from management. However, it is precisely the common practice of consumption-based membership of workers in trade unions, which has inhibited the cultivation of workers' militancy within the ITUs. The circumstances of the ITUs' emergence – under the pressure of conflicts over wages – shaped the collective conception of union-worker relations, basing it on workers' active participation in trade unions for the achievement of a joint purpose. At the point of their emergence, the escalating anger of workers over unpaid wages helped ITUs to build much stronger worker unification and participation in ITUs. However, the workers' participation in ITUs and their support for the activities of ITUs diminished during ITUs' subsequent operational phases. For instance, LAZy workers, who had their wage arrears paid, subsequently withdrew their support for co-workers who continued to protest (as some had not yet received any of the money owed to them). Similarly, at Sukha Balka only a few miners remained underground during the 1994 strike organised by the ITU. Other workers who had previously participated in strikes had abandoned the struggle.

Furthermore, having received union welfare-oriented services for several decades, workers' membership in a trade union became linked to holiday vouchers. Workers' rights to receive enterprise-based social benefits, which fulfil their basic needs, were dependent on their RUC membership. By contrast, the benefits of collective bargaining

achievements that had been negotiated by ITUs were provided to all workers independent of their membership in any particular trade union. As a result, the existing welfare-oriented agenda of trade unions reinforced workers' membership in RUCs, while at the same time, the demand for union representation in conflicts has not been successfully channelled into much-needed increases in membership for ITUs. As a consequence, the growth of the ITUs' membership during their organisational phases and conflicts was stronger than during subsequent operational phases, when the set-up costs of ITUs were increasing.

The impact of this legacy on ITUs was clearly shown, when all of the ITUs eventually partook in providing holiday vouchers and organising recreational activities for their members in order to satisfy the traditional expectations of workers and the resulting demands for such services. However, in contrast to the RUCs, ITUs have had it as its priority and have not covered the costs of these activities from the union budgets. The ITUs used employer-provided funds for workers' recreation as has been envisaged in law. The shift in the ITUs' position towards accepting a distributive function shows that any path-breaking, conflict-driven development of ITUs has been marked by significant constraints as a direct result of the legacy of the diminishing union protective and strengthening distributive functions, taking place from the 1930s (Chapter 4).

Clarification of the development of worker representation requires an analysis of how both paths of union development have concurrently advanced in the FSU.

8.2. Subsequent Development of Union Paths

Until the first ITUs were established, RUCs enjoyed a historically formed, exclusive jurisdiction in enterprise IR. The model of monopolistic unionism that underpinned socialist IR guaranteed this exclusive right of the RUCs to represent workers. When the IR system changed, RUCs continued to hold an advantaged position; as successors of socialist trade unions they retained organisations, structures and relationships throughout the country. In all of the enterprises discussed above, the RUCs' formation was based on their dominant position in IR.

The ITUs emergence and involvement in conflicts undermined this monopoly on worker representation. In combination with the ITUs' criticism of RUCs, a confrontation between ITUs and RUCs ensued. As Panasenکو, the President of the FTUMWU has observed,

“they [RUCs] complained to the Deputy Head of the Parliament, sent their complaints to various Members of the Parliament, cast aspersions on the Internet [...] and continue to do so. [...] Where we

[ITUs] emerge, the presidents of the 'old' trade unions [RUCs] threatened and treated me like dirt. They even threaten to launch criminal cases against us and keep saying that we 'entered a territory, which is already owned by someone else' (Panashenko, FTUMWU President, interview).

This kind of RUCs' aggression towards ITUs was observed in the case of every RUC examined above. The ITU's activities themselves naturally prompted aggression from the RUCs. Threats, complaints to the authorities and pressure on workers from reformed unions across the country significantly and persistently inhibited the operation of many ITUs. These conflicts were particularly detrimental to the ITUs' later development as intense inter-union conflicts emerged in relation to members and access to bargaining.

8.2.1. Inter-Union Competition and Conflicts

The basis of the ITUs' development has been in the organisational legacy of strike committees rather than that of socialist trade unions. Consequently, different organisational legacies underpinned each of the union paths. While RUCs managed to use their legacy in order to maintain their considerable positions and memberships under the new institutional settings of IR, any path-breaking, conflict-driven development has been marked by significant constraints as a direct result of this legacy.

Inter-Union Conflicts and Workers' Membership in ITUs

Competition for members within an enterprise in cases of union co-existence can have positive effects (e.g. Kahmann 2003), but the inter-union competition between RUCs and ITUs was not positive. As all ITUs respondents noted, confrontation with the RUC provoked by the emergence of the ITU resulted in pressure being put on ITU leaders and members and, ultimately, considerable membership fluctuation of those unions. At the peak of competitive pressure, up to ten members started to withdraw from some ITUs each day as heavy repressions against workers started. The unions faced increasing difficulties in recruiting workers and the union organisations (even that of the more successful ITU of Sukha Balka) were almost completely destroyed. Consequently, competition between RUCs and ITUs for members significantly inhibited the ITUs' from fully establishing themselves and running their daily operations and deprived them of a fair chance to grow and strengthen their organisations. Notably, while the organisational phase of all ITUs was characterised by direct pressure on members, during the operational phases of ITUs, pressure took more latent expressions. As a result of these latent expressions of pressure on ITUs, ITUs and their members were not rewarded with any kind of a break, when they entered their operational phase, confronting higher set-up (or operation) costs during this phase of their development.

Inter-Union Conflicts and Access of ITUs to Collective Bargaining

A further expression of the inter-union conflicts regards access to the IR arenas. The most explicit demonstration of this was shown throughout the case studies in the situations where RUCs denied ITUs access to collective bargaining. With regard to the institutional infrastructure of IR, in cases where several trade unions coexist at one enterprise, a joint representational body was formed in order to conclude a collective agreement. However, as RUCs have traditionally been a single bargaining agent at their enterprise, they were also in a position to refuse to establish such joint bargaining councils in collaboration with ITUs and to deny access to bargaining to the ITUs. It is important to note that ITUs were excluded in spite of the legal prescription to establish a joint body for bargaining by the existing RUCs. Legal suits by ITUs yielded hardly any results and no punishment could be expected, in these cases of legal violations by the RUCs due to the lack of the law enforcement in general in the country.

As ITUs were denied access to collective bargaining and enterprise commissions, this left ITUs with only legal (and external) means of solving the work-related conflicts, which were not as effective. This left the aforementioned ITUs in a position, whereby they could only continue to articulate conflicts through arbitration or, at best, protests, with the legal activities of the ITUs providing the key way to institutionalise conflict outside enterprised-based IR arenas. For instance, ITUs managed to stop the overt confrontational activities of RUCs in response to the ITU's demands to be included in collective bargaining, when they went public, using local media including television and organising several protests. As the discussion above shows, inter-union competition provoked by the emergence of ITUs compelled them to direct energies and resources to survive inter-union conflicts in order to establish their jurisdiction in IR. The ITUs were forced to mobilise their scarce resources precisely when they were most fragile. This invites discussion of the pre-conditions, which have underpinned RUCs and ITUs' formation and their involvement in these inter-union conflicts.

8.2.2. The Advantages of the RUCs

The pre-conditions upon which each union develops, operates and consolidates underpin the resulting balance of power between RUCs and ITUs. The case studies above show that due to different contexts of emergence of RUCs and ITUs, the pre-conditions, upon which each of the trade unions engaged in competition were unequally distributed.

Material and Organisational Resources

Union resources were not given sufficient attention in the literature despite constituting a very important area of analysis of post-socialist unions. As the successors of socialist trade unions, RUCs inherited the immense material resources of socialist trade unions, including numerous office buildings, vacation and health resorts and cultural facilities. While a drastic loss of membership threatens any trade union with the decline of its financial base, this was not the case for the RUCs. Even against the background of significant membership decline, the successor RUCs became 'one of the richest collective property owners' (Budzan 2002). This inheritance has provided a strong basis for further operation of RUCs irrespective of membership losses. The enterprise-based RUCs could easily operationalise their specific agendas as sending workers to recreational establishments meant sending them to facilities that continued to be owned by the regional and branch RUCs and their federation FPU. The organisational resources as embodied in the overall structure of these unions (including union committees at different levels and their access to state and regional authorities) have ensured that RUCs have not been as helpless and weak as originally depicted in the literature.

By contrast, the lack of any sustainable and substantial financial or material base has remained a chronic problem for the ITUs. The ITUs have been reliant exclusively on dues from wages that have not even been sufficient to cover the workers' subsistence. Panasenko, the President of the FTUMWU reported that one member paid one euro as a membership fee to a medical workers' ITU out of a salary of about one hundred euros a month. Also, in the many cases where workers' wages were not paid for several months, the ITUs could not collect membership dues (Fundovny, VPONU President). Finally, as a pressure tactic, employers often refused to transfer the dues to ITUs, which was made possible because the common practice of paying membership dues remained the check-off system. The lack of material and financial resources consistently created survival problems for ITUs. In contrast to 'rich' RUCs, ITUs were forced, "[...] to lead a hand-to-mouth existence with no full-time workers, no office facilities, no places to hold meetings [...]" (Clarke, Fairbrother and Borisov 1995: 13). As this indicates, in contrast to RUCs, ITUs have been faced with an ever-present lack of resources.

Although the problem of the under-resourcing of ITUs was mentioned in the literature (e.g. Clarke, Fairbrother and Borisov 1995, MacShane 1994), its sources and implications had not been sufficiently discussed. Beyond the basic needs, e.g. to rent office buildings or pay the wages of union officials, ITUs had problems financing

adequate advocacy, educational activities and membership recruitment campaigns on a broader scale. Above all, it was not sufficient to accumulate much-needed strike funds. As a consequence, many ITUs have claimed shares of the office buildings and establishments that RUCs had inherited from the socialist trade unions. As Slomp, van Hoof, and Moerel (1996) have rightly observed, the division of the assets of the RUCs was 'a bone of contention' between RUCs and ITUs. Clearly the availability of material resources has played a significant and very different role in RUCs and ITUs, having differing consequences for their subsequent development. While RUCs had an advantage in terms of resources, resources provided an ongoing obstacle to the development of ITUs.

Firstly, despite changes to IR, the RUCs have managed to retain the membership of more than half the workers. By contrast, ITUs had to grow their membership from zero and had to overcome significant hurdles in the process of member recruitment, as the cases above demonstrated. Crucially, the low number of members had immediate financial impacts for ITUs. Secondly, the RUCs' organisational inheritance provided a strong basis for the implementation of their agendas and for the preservation of their members. By contrast, the ITUs articulated their agendas through protest activities and in the court. However, their scarce resources have not allowed them to hire good lawyers or to cover the wages of those workers going on strikes.

Thirdly, RUCs inherited their organisational structures from the socialist trade unions including the local, regional and sectoral structures. In this way, the RUCs have enjoyed the assistance of the higher-level union committees and have thus preserved access to the union and IR-related knowledge. This gave RUCs an important advantage over ITUs, the structures of which had to be developed from scratch; ITUs having "[...] started to build [their] organisations by having one table in a room" (Tretyakov, ITU President of Sukha Balka, interview). Additionally, higher-level union structures had to be established by the enterprise-based ITUs and sustained from the resources and engagement of enterprise-based ITUs, when they wanted to ensure the ITUs' presence at higher levels of policy-making.

Fourthly, the education of new leaders and members has not been a problem for RUCs, as various educational activities could be conducted in the buildings of and financed by the RUCs or Central Committees. The lack of education of leaders and members was detrimental for the later operations of ITUs. As ITUs' leaders were elected from the ordinary workers themselves, they have, as a rule, had no relevant knowledge. As

Prysyazhnyuk, the ITU President at LAZy said, “we are just ordinary workers here. We have to study law and the structures of the IR from the very beginning” (Prysyazhnyuk, the ITU President at LAZy, interview). The ITUs’ opportunities to educate new leaders and members on the basic features of union work were, however, limited in comparison to RUCs. Given the chronic problem of resources, which characterised all of the ITUs researched, in order to educate a higher proportion of leaders and members, the ITUs have had to rely on the assistance of foreign and international trade unions.

Non-Material Resources and Access to Management and State Authorities

In addition to the ‘organisational inheritance’ and wealth of material resources granted to RUCs, their advantageous positions in IR were also underpinned by non-material resources, such as their cooperative relationships with management and access to authorities. Particularly in the midst of the harsh post-socialist conditions that many enterprises have found themselves in, the need for cooperation with management has intensified (e.g. Ashwin 1997, 2007, Hoffer 1998, MacShane 1994). Benefits for management included the acquisition of state subsidies and advantageous legal treatment (e.g. Logue, Plekhanov and Simmons 1995, Plekhanov 1995, Siegelbaum 2004). Connor (1996), for instance, has argued that successor trade unions have targeted the state for such subsidies, while their access to leaders of higher union bodies could be useful for enterprises in their attempts to gain subsidies. As a consequence, proximity to management or state authorities has provided sources of leverage for RUCs.

Additionally, the RUCs’ access to authorities (e.g. as in case of the AMKR RUC) helped them to advance some of their demands without employing such confrontational tactics as protests or strikes. Although RUCs’ close relationships with enterprise managements and state authorities might have compromised their capacity for independent worker representation from a sociological perspective, in post-socialist settings they have underpinned RUCs’ power during the conflicts with the ITUs, and even some conflicts with foreign management. As Ashwin (2004: 33) has similarly observed, in the post-socialist context, “the real power base of many unions within the enterprise continues to be their relationship with management rather than their organizational strength”.

The legacy of these close relationships that RUCs have had with management and authorities has had corrosive implications for the subsequent operation of ITUs. While ITUs have not had the same easy access to management and local and national

authorities as RUCs, the emphasis of the ITUs on law enforcement created complications for management and even regional governments, thus making their work more difficult. This provided additional reason for RUCs and management to cooperate in their counteraction against the ITUs and created significant obstacles to the ITUs' development. It has resulted in pressure being applied by enterprise management on the ITUs' leaders and members to withdraw from their unions and to join RUCs as well as the refusal of management to accept the ITU as a bargaining agent. The denial of the access to collective bargaining and pressure on members is precisely the strategy that RUCs have pursued in order to win inter-union conflicts.

As this discussion shows, the RUCs' organisational legacy and the legacy of close relationships with management gave them 'early-comer' advantages, including structural, resource, and relational advantages over ITUs. As a result of the several aforementioned advantages enjoyed by the RUCs, aside from the immanent conflict between both paths, an unequal balance of power between the RUCs and ITUs has been emerging. Consequently, under conditions of inter-union rivalry, these advantages helped the RUCs to maintain considerable positions in IR in contrast to ITUs. This supports the second hypothesis stating that strong organisational presence of reformed trade unions has constrained the capacity of ITUs to construct, develop and strengthen new forms of union representation within different institutional arenas of IR. In spite of the support of workers being given to ITUs in critical moments of conflicts and disputes, in many cases, these RUC positions have been sufficiently strong enough to limit the opportunities for ITUs to develop their path during their operational phase.

8.2.3. Overcoming Inter-Union Conflicts: a Division of Spheres of Activities

This initial inter-union conflict during the organisational phase could be observed in all but one case of the concurrent development of RUCs and ITUs, that of LAZy. At the same time, the case of LAZy no longer reveals the same mechanisms in place. Here, when the ITU was established, the RUC had completely lost the support of the labour collective as well as had failed to receive access to resources for welfare-related activities (from the enterprise and from the union as a result of problems caused by a lack of support from the oblast committee of trade unions) and to the institutions of union-management cooperation (the RUC's former president was prohibited from entering LAZy). All in all, the mechanisms ensuring the reproduction of the RUC's traditional path (labour collective institutions, enterprise-based welfare and union-management cooperation) dissolved here, as did the grounds for inter-union conflicts at LAZy.

As the discussion of the forms of worker representation included above in this chapter has further indicated, inter-union conflict was not a common pattern at both the Zaporizhya hospital and Sukha Balka. Two cases of consolidation – those of ITUs of Sukha Balka and the Zaporizhya hospital - do not fully conform to this finding. In contrast to the other cases of ITUs that have been discussed in this dissertation, inter-union rivalry at Sukha Balka and Zaporizhya clinical hospital has not prevented the consolidation of ITUs. Both cases examined in this chapter showed the relatively quick consolidation of newly emerging trade unions. Unlike the previous cases discussed above, in which RUCs have been able to inhibit ITUs operation, in the cases of both Sukha Balka and the Zaporizhya hospital the RUCs could not preserve their traditional monopoly in the IR arenas. At one of the two Sukha Balka mines its RUC even dissolved. At both the Zaporizhya hospital and the second Sukha Balka mine, the RUCs were marginalised in enterprise-based arenas. Especially when it came to collective bargaining, the RUCs were participants rather than initiators of the processes. At the same time, the remaining RUC at Sukha Balka and the one at the Zaporizhya hospital continued to maintain their stance and considerable positions in the areas, in which they have traditionally possessed expertise, such as organising recreation.

First, the access of the ITUs to collective bargaining at Sukha Balka and the Zaporizhya hospital was facilitated during the organisational phase through the support of labour collectives. Despite the resistance of RUCs, both ITUs gained access to bargaining the same year or year following the establishment of the union. Aside from the inter-union rivalry, this offered much better pre-conditions for the consolidation of both ITUs than was the case for the ITUs at LAZy, AMKR and Kyiv metro that have continuingly operated mainly through the institutional arenas outside from enterprises. As a result, the inability of the RUCs to completely block the ITUs from joining the arenas of IR resulted in a division of the spheres of activities between RUCs and ITUs and has enabled the ITUs' consolidation.

Additionally, against a background of inter-union rivalry both union organisations of Zaporizhya hospital and Sukha Balka utilised different structures and activities and thus each of the unions could concentrate on their own separate areas of expertise. The RUCs continued to focus on the distribution of recreation vouchers and to organise leisure-time activities, excursions and cultural events. The ITU did not threaten the RUCs' activities; it has had no strong interest in holiday organisation. Instead, the ITU continued to focus on bargaining, enforcing provisions listed in the collective agreement and individual protection of workers. These are areas, where the RUC had not possessed

the capacity to challenge the ITU. From this perspective, in their consolidation phases the RUCs did not pose any threat to the ITU just as the ITU did not pose a threat to the RUC.

Finally, by establishing constructive relationships with management, the ITUs have been able to further affect the close relationship between RUCs and enterprise management to the extent that the relationship has no longer guaranteed the RUCs' strength over the ITUs. As a consequence, neither RUC had the same strong position of the RUCs in the other cases, in which RUCs had been able to inhibit the establishment and operation of ITUs. As a result, at Sukha Balka and the Zaporizhya hospital, the ITUs' consolidation was not blocked by the RUCs, as had commonly occurred with other ITUs. This enabled the consolidation of the ITUs, even though the ITUs have remained smaller than the RUCs in terms of the number of members of each trade union.

8.3. Consolidation: the Impact of the ITUs on RUCs' Development?

In light of the concurrent development of RUCs and ITUs the question arises, whether the emergence of ITUs has provided any incentives to speed up the progress of RUC reforms. ITUs could potentially have had positive impacts on the RUCs by prompting RUCs to ensure workers' representation in collective bargaining and conflicts for instance. Under the conditions of the concurrent development of RUCs and ITUs, ITUs were challenging the pre-conditions underpinning the RUCs' operation in IR - union orientation towards labour collectives, functions as agents of social benefit and conciliatory forms of worker representation.

RUC 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. As the cases presented above show, under the indirect pressure of ITUs, conflict-based identity, agendas, relationships with management and attitudes to conflicts started to emerge within the RUCs here discussed. For instance, at Lafarge Mykolaivcement some changes in the views and positions of RUCs' leaders were observed, when they tried, "[...] to re-fashion the union from the very grassroots, so that it no longer resembles that old, Soviet and communist one" (Gusak, the RUC President at Lafarge, interview). A new collective identity of workers and some new forms of actions could be observed within the RUCs at LAZy, Lafarge Mykolaivcement and even AMKR, when conflicts of interests became particularly visible and RUCs articulated their more antagonistic positions in relation to management. Protests and demonstrations could be

observed in these cases as well, except for the RUC of Lafarge Mykolaivcement. Also, these RUCs took up the issues of wages and lay-offs in union-management negotiations. Under the impact of ITUs, and especially under the new leadership of the RUC, these RUCs generated conflicts, thus, they developed the attributes that were needed for the installation of conflict-based forms.

Also, in those cases of consolidation, by establishing constructive relationships with management, the ITUs have been able to further affect the close relationship between RUCs and enterprise management to the extent that the relationship has no longer guaranteed the RUCs' strength over the ITUs. Ultimately, close union-management relationships have not guaranteed a stronger position for RUCs than ITUs in terms of access to collective bargaining. The strength of the RUCs' alliances with management was common amongst the cases of inter-union rivalry discussed in previous chapters, but could not be observed at Sukha Balka and the Zaporizhya Clinical Hospital. Although the RUC of the Zaporizhya Clinical Hospital continued to maintain their 'harmonious' relationship with management, these relationships have not granted RUCs improvements in wages and working conditions or even social and welfare activities. As a result, they have not granted any powers to the RUC and neither RUC had the same strong position of the RUCs in the other cases.

These observations help to confirm the third hypothesis stating that under the impact of ITUs, RUCs integrate new practices of conflict articulation into their existing forms of actions and activities, thus, incrementally adjusting the path of their development in order to preserve the core of their former services and activities. At the same times, these cases also reveal significant constraints on the processes of reforms, existing in cases of those RUCs.

As the case studies show, the RUC leaders deserve a significant share of responsibility for their unions' reticence to retreat from the previously formed, 'conciliatory' model of worker representation. Many of them began their union careers during socialist times and thus were likely to have been guided by the views and conventions that they formed in the past – in a different context. Buketov (1999: 100), for example, emphasises "the mentality of trade union functionaries, which was both unwilling and unable to give up its *nomenklatura* role and privileges" (emphasis in original; Hoffer (1995) argued similarly). Those RUC leaders that became committed to change were in the minority. Mandel (2004), Kubicek (2004) and Crowley (2000) make similar observations that such exceptions within RUCs, "[...] were largely the consequence of exceptional leaders,

who in their turn, enjoyed the support of exceptional, progressive, national and regional leaders” (Mandel 2004: 269). The vast majority of RUC leaders have proven resistant to pressure to change.

The lack of RUC leaders’ commitment alone is, nevertheless, not sufficient to explain the current state of ITU impact on these trade unions. The examples of Kyiv metro, LAZy and Sukha Balka show that if no changes were attempted by union leaders themselves, there were still officers and members of the union who pushed for reforms. Hence, the agency to change RUCs was present, although it frequently failed to bring structural change to the union. The explanation for this is found in the RUC leaders’ commitment to labour collectives; their identification with labour collectives has had de-mobilising effects on workers and their readiness to get involved in conflicts. This was demonstrated at LAZy, where the RUC’s President, Krasnevyh, managed to postpone workers’ protests by promising workers that their wages would be paid soon and so there was no need for any collective actions. Some of these de-mobilising effects on workers and their readiness to get involved in conflicts was observed even at AMKR and Lafarge Mykolaivcement – the most likely case in which the legacy would be expected to be the weakest due to changing interest constellations and activities. At AMKR, workers wanted to go on strike on several occasions, however the RUC leadership there managed to convince workers that strikes were not necessary. Despite their articulated wishes in wages, workers were forced to accept recreational services as compensation under the pressure of their union leadership, who in turn played a central role in the distribution of these social services.

Furthermore, the structural integration of the RUCs froze them in their traditional positions within their sectoral structure and constrained the possibilities for RUCs to reform. RUCs were not autonomous union organisations in structural terms, rather, they were local committees within the structures of the sectoral trade unions. The insertion of RUCs into this same structure of their sectoral trade unions severely limited any possibilities for intra-union RUC reforms over and above any pressure exerted by workers for RUC reforms. As Sokolov, the President of the L’viv Confederation of Trade Unions explains, albeit in a different but relevant context:

“it does not matter how good a person could be [...] like one brick in the whole building, he cannot change anything, unless he changes the foundation of this building. And there are two ways. Either he will be thrown out by the system, or he will be absorbed by the system” (Sokolov, the president of the L’viv Confederation of Free Trade Unions, interview).

For instance, in the case of LAZy changes in the RUC’s leadership and a more offensive and aggressive stance of the RUC was followed by the confrontation against the RUCs’

activities by the oblast committee and its President, Zakhvatkina. As a result of this confrontation, the LAZy RUC was thrown out of IR.

Under the new institutional system of IR and in the context of the concurrent development of RUCs and ITUs, the grip of former official unions was weakened due to the emergence of ITUs. First and foremost, the establishment of ITUs has challenged the role and legitimacy of RUCs in the critical moments of emerging conflicts, spurring RUCs' learning processes and on-path changes in RUCs. At the same time, due to the aforementioned constraints on RUCs, the strong dominant positions of the RUCs and the numerous incentives for RUCs to maintain their agenda and approach created unfavourable conditions for advancing the RUCs' formation towards protective functions under the potential impact of ITUs. In combination with intense inter-union rivalry and conflicts, the subsequent concurrent operation of both RUCs and ITUs has resulted in slow processes of learning by RUC, although it still has not resulted in the ultimate installation of more conflict-oriented forms of worker representation through RUCs.

8.4. Conclusion: Mutual Impacts and Interdependency in the Organisation of RUCs and ITUs in Ukraine

This cross-cases analysis of trade unions has focused on the concurrent formation of the previously existing RUCs and newly established ITUs in the post-Soviet Ukraine. Contrary to the dominant research perspective of path-dependent reproduction of representational institutions, the present dissertation finds diversity in the patterns of worker representation developing during the formation processes of different Ukrainian trade unions taking place within the same institutional structure and national context of IR.

Within the new institutional infrastructure, the final envisaged outcome of union reorganisation after the collapse of socialism was clearly a trade union with representational and protective functions similar to those that are typically understood and accepted as fundamental elsewhere. This overview of union formation has demonstrated that the strengthening of labour collectives, union social functions and union-management and political alliances have resulted in greater longevity of the traditional forms of union representation. At the same time, this traditional form of union representation has not continued without changes. Some on-path changes and path-breaking developments have simultaneously facilitated more conflict-oriented forms of worker representation within the same system of IR and even within existing

paths. The development of different functions of worker representation due to historically differing union formation is clear from the case studies.

Given that the initial trade union character and orientation reflect circumstances of formation (Hyman 1999), the specific historical contexts in which these trade unions emerged, shape the interests with which unions identify, the views of activists and leaders, the agendas they pursue and the type of power resources they cultivate and apply (Hyman 2001: 1). Different historical and political moments at which different trade unions emerged are key for understanding the institutional changes in the system of IR, as their establishment at differing points in time and circumstances has led to a different formational paths.

In terms of union development, under the conditions of the new institutional structure of IR two courses of development of post-socialist trade unions can be distinguished from the cross-case analysis of union formation outlined above. First, the path-enforcing development of RUCs has been rooted in their organisational legacy often effectively involving the same leadership as the socialist trade unions. The reproduction of the labour collectives, distributive form of representation and union-management and political alliances have precluded any recognition of conflicting interests between workers and management and consequently, have thus reinforced the previously formed institutions of conflict-free and welfare-oriented worker representation that were largely concerned with conflict suppression. This was especially evident in those cases of RUCs at enterprises, which are a part of municipal property. Despite incentives to develop new organisations and forms of worker representation, the pre-conditions for union activities, cemented during the process of path-enforcing formation of the RUCs, have offered little opportunity for conflict of interests between workers and owners of capital to form an ideological basis for worker representation.

It is important to note that changes have been taking place in some RUCs. RUCs of Lafarge, LAZy, Lafarge Mykolaivcement and AMKR show some on-path changes, including identity-based conflicts and wage approaches. Exogeneous factors (such as foreign ownership, for instance) were identified as the drivers of these on-path changes, as they broke into the existing interest constellations and the understanding of the union representational institutions. In terms of conflict-based identities and conflicts of interests, the indirect impact of ITUs could be observed as well. Yet, the logic of worker representation remained the same (strong orientation towards domestic labour collectives, socially and welfare-oriented agendas and the consistent use of state-

political alliances). These RUCs' achievements will likely remain dependent on the external political support received, as independent union organisational capacity to enforce its demands has hardly developed. It is not clear whether these unions would be able to mobilise its membership, having previously failed to develop militantly. Conflict-based forms of worker representation are no longer guaranteed to appear, once the political support begins to weaken. It is not clear, whether the conflict identities would last and these changes would not be revoked, when the enterprises returns to domestic ownership or political support weakens.

In the second course of development, ITUs have advocated a (re)turn to the unions' more protective function that had already been emerging in the early 19th century in Ukraine. When compared to RUCs, ITUs have emphasised the opposition between workers and employers and as such their attempts to represent workers reveal a path-breaking character. This is shown firstly by the fact that ITUs have continuously focused on those specific workers' interests and issues upon which employers' and workers' interests differ, such as wage increases and payment of wages debts. Secondly, by raising work-related issues, ITUs targeted management in a direct and persistent manner. Thirdly, ITUs have not admitted anyone to their membership, who had been in managerial positions. They have thus drawn a line between the interests of workers and those of management. Also, the type of changes, tensions and constraints in case of ITUs differs significantly from those of RUCs. In contrast to the binding effects of the traditional path, the ITUs are clearly characterised by their departure from the existing path.

The simultaneous existence of both paths brought the historically formed social roles and functions of RUCs into question. ITUs advocated a union role in worker protection that moved away from labour collectives and, at least initially, discredited holiday voucher distribution and union-management alliances as an activity contradicting the purpose of a union organisation, thus directly targeting the previous model of worker representation, which had been based on the unity of interests within the labour collectives and the RUCs' role as agents of social benefit. This opposition between trade unions was clearly evidenced at the strike committees' signing of the agreement to end the strike of 1989. The strike committees were signatories on the 'workers' side of the table. The signatories on the 'other' side of the table were the Soviet government together with the All-Soviet VTsRPS and the Ukrainian Republican Council of Trade Unions. ITUs self-identification as 'free', 'independent' or 'alternative' additionally

stresses the ITUs' ideological opposition to the previously practiced conciliatory forms of worker representation.

In line with the first hypothesis, it can be concluded that the formation of trade union representation in interest-based conflicts was constrained by the latent, and immanent, conflict hidden in the structural and historical differences of two alternative paths of union development. Against the historic background of the development of union role and functions, this legacy of union development has had corrosive effects on any path-breaking developments that might have been possible as a result of the strikes of the 1980s. This is clearly visible in the development of ITUs. As a result of the unorthodox interests represented by ITUs, precisely due to the effects of union development towards its social functions (during the 19th century), any independent organisation that emerged or could have emerged at that point in time was immediately placed into a position of opposition to the existing unions, within which the same distinct workers' interest or potential conflicts could never have been recognised.

While the concurrent development of two different paths created significant chances to develop conflict-based forms of worker representation, the cross-case analysis above clearly shows that in spite of the new institutional infrastructure of IR which has established conflict of interests and both union freedoms and pluralism as the basis of IR, numerous obstacles for the development of more conflict-oriented forms of worker representation were identified over the course of this discussion. The clearest expression of these obstacles can be identified when exploring the history and developments of newly established ITUs. The reluctance of RUCs to concede control over any portion of their historical monopoly of the representation of workers has led to intense inter-union rivalry and competition. While the ITUs threatened the legitimacy of RUCs, and their dominant organisational presense in some enterprises, they were never able to mobilise a serious organisational threat to the resource-rich RUCs on a broader geographical scale. Inter-union conflicts forced ITUs to channel energies and resources into organisational survival rather than into developing their organisations and models of workers' protection.

This analysis brought to light the highly unequal pre-conditions that underpinned RUCs' and ITUs' formation and competition against each other. Different organisational legacies underpinned each of the paths of representation. The path-enforcing development of RUCs has been based on their inheritance of members, material and financial resources, properties and establishments from the socialist trade unions.

Similarly, RUCs continued to maintain close cooperative relationships with enterprise managements and regional and state authorities that had previously been developed and nurtured under the earlier system. ITUs had to recruit members from the very beginning, and their material and financial bases suffered from chronic under-resourcing. The confrontation of ITUs by RUCs and enterprise managements created additional significant obstacles for building, sustaining and operating ITUs at the workplace level. The existing RUCs also consistently and actively blocked access to IR arenas.

While RUCs managed to use their legacy in order to maintain their considerable positions and memberships under the new institutional settings of IR, any path-breaking, conflict-driven development has been marked by significant constraints as a direct result of this legacy. The combination of all of these resources gave RUCs significant advantages over ITUs. In particular, this directly affected the ITUs' prospects of establishing their presence in enterprise-based collective bargaining. As a result of these unequal pre-conditions for the development of RUCs and ITUs, RUCs found themselves in much stronger positions in IR compared to ITUs. This left few opportunities for the ITUs to develop their organisations and consequently, organisational preconditions necessary in order to advance a more conflict-oriented path of worker representation. Furthermore, the conflict inherent in the structural preconditions of IR was further channeled into the alteration of the existing laws in order to exclude the ITUs from the IR arenas.

A final observation that comes out of the analysis of the concurrent development of RUCs and ITUs concerns the implications of the ITUs' emergence for reforms within RUCs. While the organisation and operation of ITUs brought into question the RUCs' 'conciliatory' form of worker representation, the development of ITUs has acted as the catalyst for on-path changes amongst the RUCs. This concerns conflict-oriented identities as well as union-management relationships. In some cases depicted above, the ITUs have been able to further affect the close relationship between RUCs and enterprise management to the extent that the relationship has no longer guaranteed the RUCs' strength over the ITUs. Yet, the preservation of RUC legitimacy with members as they continued to reward low-paid workers with recreation and discounted holidays could not be targeted. Thus, instead of resulting in the anticipated outcome of profound RUC reforms heading towards more conflict-oriented representation, rather, RUCs responded by incrementally adjusting their path in order to preserve their core social services and activities.

The cross-case analysis clearly showed that the conflict hidden in the structural, historical and organisational differences of two alternative paths of union development has had a dramatic impact on the enactment of the new institutional infrastructure, including the practice of collective bargaining or even social partnership. The original purpose of social partnership was the mediation of the basic conflict of interests between workers and the owners of capital. However, for RUCs, partnership did not only mean that the relationship between unions and management was free of any conflicts (e.g. Ashwin 2004). Within the social partnership framework, RUCs could legitimise their commitment to the historically formed conciliatory model of worker representation by reproducing the bureaucratic and legalistic approach to representation of its members. The immediate result is that successor trade unions frequently reject the adversarial implications of bargaining anticipated for in the legislation (Clarke and Fairbrother 1994). In contrast, ITUs were inhibited in their subsequent operation by being excluded from enterprise-based and national IR arenas, unless the vote of the labour collective ensured the ITUs presence within the arenas of IR and the pre-conditions for their consolidation right at the beginning.

Conclusions: the Prospects for Conflict-Based Worker Representation in the FSU

Against the background of what has here been described as ‘pre-emptive’ institution-building versus underdeveloped worker representation (Chapter 1, 3), this dissertation has examined the extent to which certain conditions and components are necessary for the natural evolution and realisation of conflict of interests to materialise alongside the concurrent development of conflict-based representational institutions. This concluding chapter explores the implications of the co-existing development of successor (former socialist) and ‘independent’ (newly established) trade unions in line with the questions posed at the beginning of this dissertation.

Contrary to the dominant research perspective of path-dependent reproduction of representational institutions, the present dissertation finds diversity in the patterns of worker representation developing during the formation processes of different Ukrainian trade unions taking place within the same institutional structure and national context of IR. Essentially, different expressions of the institutional change, which is unfolding, can be observed in the FSU through examining trade unions. Institutional change embraces gradual changes on a given path (as shown by some of the cases of RUCs discussed here) or encourages departures from the path and the creation of alternatives (as exemplified by ITUs) in addition to path-dependent development.

Question 1: How have interest constellations and forms of action changed within the new institutional arenas of IR as a result of union development?

The importance of the conflict of interests as a theoretical premise in the field of IR is pre-supposed by the recognition of contradictory interests of workers and capital, which need to be institutionalised (Giddens and Held 1982, 1975, Pollert 1999b).⁷⁸ It is on the basis of this premise that the representation of workers by post-socialist trade unions was labelled as ‘weak’ in the literature. Given the legacy of weakly developed

⁷⁸ Specifically, the most basic level of conflict - ‘structured antagonism’ - exists in all work organisations (including enterprises) in which workers’ ability to work is deployed in the creation of surplus that is passed to another group (Edwards 1986). Such an understanding of conflict carries no necessary connotations for wider class conflict and does not require that workers see their relations with their employers in class terms. However, this definition does require forms of collective organisation of workers’ ‘anger’ (Ost 2005) over the painful consequences of economic reforms. Thus, conflict over the distribution of material resources within an enterprise provides a useful concept to unite workers. A wider class conflict in sociological terms is not necessarily required, but an understanding of class relations in political terms is necessary. Politically, such a notion of class, “[...] represents an economic response to economic inequalities, proposing a rational distribution of material resources as a way of resolving burgeoning social conflict” (Ost 2005: 33). As unions are confronted with the economic consequences of post-socialist transformation affecting workers, they provide worker representation on the premise of this basic conflict of interests over the distribution of resources regardless of whether the ‘class’ consciousness of workers is present on the more abstract level or not.

differentiation between workers' and employers' interests (e.g. Aguilera and Dabu 2005, Blom 2002), it is essential to examine the lines of conflicts of interests and interest constellations developing through trade unions within the formal IR arenas in order to identify the extent of the institutional changes. This is further necessary in view of the fact that the negative economic implications of post-socialist transformation have given rise to clearer distinction of differing interests.⁷⁹ Investigating the organisational phase of trade unions proved helpful to explore the emerging lines of conflicts rooted in union development.

As highlighted in the literature, crucial to the path-dependent reproduction of union development has been union commitment to labour collectives, enterprise-based distribution of material resources in the form of welfare services and close relationships with management or political forces. These mechanisms were also identified as taking place throughout the activities of the unions examined in the case studies. At the same time, contrary to the narrow path-dependence perspective, it has been shown that the effects of these mechanisms arise against the background of tensions emerging from an institutional structure of IR, which combines path-dependent as well as newly installed elements, as well as first and foremost, from the concurrent development of RUCs and ITUs.

Even with the installation of a new institutional framework of IR, neither these welfare-based forms of resource distribution between workers and employers nor the practice of labour collectives have been abandoned. The obligations of employers to provide funds for workers' welfare have persisted in law, while the majority of trade unions have continued to provide non-wage welfare services in their practices on a daily basis. Similarly, in terms of certain union activities (e.g. signatures of collective agreement or decisions to strike) the approval of labour collectives is required in line with the regulatory framework. Enterprise, as 'a social organism' (Clarke 1996) which, in the Ukrainian context, necessitates the unity of labour collectives, non-wage welfare services and agendas as well as pressure for cooperation between management and enterprise-based unions, continues to play a central role in fostering the reproduction of 'distributive' forms of unionism.

⁷⁹ Perhaps the clearest example which shows the plurality of interests being expressed concretely is found in the articulation of demands for wage increases and the payment of wage debts through miners' strikes (e.g. Crowley 2000, Ledin 2009a, b, Ledin, Agapov and Belogradin 2010, Tatur 1998). As this has shown, especially at the enterprise level, a plurality of workers' and employers' interests has now been articulated, even if they have not involved expression at the abstract level of class relationships.

Within the post-socialist institutional infrastructure of IR, opportunities to organise the distribution of enterprise resources between workers and employers in the form of wages and going beyond the unity of management and workers' interests embedded in labour collectives have opened up. Aside from the legally-set minimum wage, wage-based forms of resource distribution have been dependent on the outcomes of enterprise-based collective bargaining between trade unions and employers. In contrast to the former path, new union agendas also embraced wage negotiations and collective bargaining as the main approach to resource distribution, which initially was in opposition to management and which has consistently persisted in this manner.

It is possible for both logics of union representation to coexist within the current institutional structure and for other cases to develop which exist in between these paths. In such cases, trade unions would combine both non-wage and wage services, while still being able to place emphasis on the distributive approaches and activities as trade unions continue to stay on the traditional path. As this variety shows, not only a plurality of workers' and employers' interests, but also the pluralistic forms of union-based interest representation are now possible due to there now being more than one given institutional option. As these different types of trade union development and actions can be identified, the impact of these effects on patterns of worker representation depends on concrete actions and activities by the union and the way it uses or enacts the given institutional infrastructure.

The analysis of the co-existing RUCs and ITUs proved helpful as an exemplary approach to analysing the process of the emergence and institutionalisation of different patterns of representation of conflicts of interests within the newly established institutional arenas of IR. Contrary to the dominant analysis of post-socialist IR, which over-emphasises the helpless path-dependent conciliation of trade unions over conflictual issues or even their containment, the findings from the case studies examined here make it clear that two decades of post-socialist transformation and union development have led to new content, scope and expression of the conflict of interests. Similarly, as clearly shown during the organisation phase of all trade unions, the differences in the content and scope of conflicts, in turn, have led to distinct ways of establishing trade unions. In all the enterprises analysed in the present dissertation, a relatively stable variance of such patterns of worker representation is expressed in unions' logics of representation; this variance endures beyond the unions' organisational phase and continues in their operational and consolidation phases. The types of changes observable during the

organisational phase may be drawn, in accordance with Deeg (2001), along on-path and off-path changes in addition to path-dependent conduct.

- Path reproduction: the path-dependent formation of trade unions was enforced through varying commitments to specific non-wage forms of the distribution of resources within an enterprise. Those resources were demanded from enterprises or were even covered for by the unions' own funds. The negotiations over the funds for non-wage services accounted for a great share of all enterprise-based collective bargaining by RUCs. The enforcement power of commitments to labour collectives, welfare distribution on the part of the employers and unions was strengthened by the identities shaped by labour collective institutions and institutions of union-management in close cooperation in these path-dependent cases.
- On-path changes: at the same time, labour collectives, non-wage welfare activities and union-management alliances have not retained the same enforcement powers during conflicts over wages and employment in contexts of foreign ownership. Under foreign ownership, changes in some RUCs led to the erosion of identities shaped by labour collective institutions as foreign managers are no longer seen as parts of collectives. Under the impact of foreign ownership, these RUCs' involvement in conflicts pervaded the institutional arenas with additional, wage-related conflicts showing 'on-path' changes of union representation logic, as the institutions of labour collectives and union-management cooperation have changed or are no longer in place. This can be explained by the fact that the exogenous forces (in these cases, the entrance of foreign owners) can weaken the enforcing effects of labour collective and union-management cooperation institutions without leading to a departure from the path, as these forces still do not challenge the higher-order institutions in terms of their installation of the welfare function of trade unions.
- Path departure: conflict-based representation (a 'new' logic) was mainly driven through the establishment of new unions. Activities of ITUs became important 'vehicles' to express the conflicts of interests throughout the collective organisation of workers and in this organisation phase, in isolation of any activities of welfare-related functions. Not only did ITUs generate conflicts, but also the organisation of further ITUs was strongly driven by such conflicts. In these cases, the containment of conflicts by RUCs created strong pressure to institutionalise conflicts. In contrast to the mechanisms, which ensured the traditional path, conflicts and opposition to management, divisions into labour collectives and emerging conflict-based union-management cooperation institutions were observed here as enforcing the path of ITUs. In this respect, ITU cases show the alternative path of union development unfolding along existing paths within the same institutional system of IR.

These on-path and off-path changes in terms of interest-based conflicts go back to the decades of socialism as well as turbulent times and events surrounding the collapse of the system of socialist governance, which have informed the development of the trade union movement for over two decades since. Against the background of new institutional infrastructure of IR, economic and political crises, privatisation and enterprise-based restructuring and reforms have changed the operating conditions of trade unions and worker representation significantly. Pluralistic organisation of interests, enabled through the establishment of the respective institutional infrastructure, opened up an opportunity to build 'alternative' union-related institutions and representation around those problems in addition to those already in place; an opportunity which was not missed – it was taken by ITUs. Consequently, in terms of the conflicts raised by trade unions, ITUs have differed significantly from RUCs – not only in the patterns of the conflicts they have raised, but also, and consequently, in the degree and scope of their development over time, either shaping their institutions through conflicts or welfare or both. It follows from this observation that the position of path-dependent reproduction of worker representation and traditional approaches of trade unions no longer correctly reflects the development of post-socialist IR. Instead, institutional change and a changing constellation of actors and approaches are seen here.

Chances, tensions and constraints produced over the course of the concurrent organisation of those trade unions have had different effects on the strengthening of higher-level institutions of worker representation. On the one hand, the establishment and activities of ITUs spurred the increase in interest-based conflicts and the inclusion of 'new' conflicts of interests into the institutional arenas of IR, transitioning into the higher-order institutions. As these conflicts of interests concern wages, working conditions and employment, the existing institutions could also be filled with new 'content'. Yet, on the other hand, these conflicts were raised and articulated in the face of the dominant path, thus constraining any attempts to raise those same 'new' conflicts as had been shown in research (e.g. Ashwin 1999, Kozina 2001, 2010). Logically, it follows that competition between these two types of organisation is emerging because, at this point in the development, the generation of new conflicts has so far only been possible within an alternative path. In this context, the first hypothesis of the dissertation was confirmed that the formation of trade union representation in interest-based conflicts was constrained by the latent, and immanent, conflict hidden in the structural and historical differences of two alternative paths of union development.

'Corporatist' approaches (e.g. Iankova 1997, Casale 1999, Hethy 1994, 1995), as well as the perspective of path-dependent legacies relating to conflict containment (e.g. Ashwin 2004, Ashwin and Clarke 2003, Chen and Sil 2006, Clarke and Fairbrother 1994) stop short of explaining this enterprise-based variety of conflicts and capturing the disconnect between the micro-level of enterprise-based conflicts and the macro-level of corporatist conflict regulation. Meanwhile, the findings of the dissertation conform to the view of Hanke and Mense-Petermanns (2001), who make the case that institutions for conflict regulation cannot be imposed 'from above' following a certain predetermined pattern, as they are being developed on the basis of actors' expectations and perceptions. Consequently, these institutional structures at the enterprise level "appear as the new central actor since the dynamics of change at this level is of considerable importance for the whole of society" (Adamski, Buncak, Machonin et al. 1999: 11).

One further important finding of this dissertation for the analysis of institutional change is the following: as these changes within trade unions show, present post-socialist worker representation can no longer be characterised with the help of uniform nation-specific, post-socialist features in relation to the forms of regulation of conflicts of interests, as used to be presented in the accounts of IR. The case of Ukraine shows that within the new, pluralistic institutional system of IR and in light of the path-dependent reproduction of the majority of unions, new, union-generated conflicts of interests have developed that confront the complex, conflicting interests and relationships between workers and enterprise managers and owners. Also, a new diversity of institutional characteristics of worker representation shaped by national borders cannot be clearly differentiated and understood as certain and coherent models of IR, not even a CEE-specific, 'transitional-society' type of IR can be distinguished (e.g. Kohl and Platzer 2003). Disconnects between the conflict-related micro-level of enterprises and the macro-level of the corporatist institutional system of IR open up the integrity and coherence of the national systems of post-socialist IR and reveal mutual influences and institutional interdependencies between the previously existing and newly created institutional elements.

For these influences and interdependencies to be explored, enterprise-based conflicts relating to worker representation necessarily bring union dynamics into focus. Exploration of this needs to recognise the ability of unions to develop new, sometimes even unexpected, methods and approaches. In this way, in contrast to the narrow path dependence accounts, the findings of the present dissertation conform to the position,

which highlights the presence of different ‘segments’ or patterns of interest representation within one and the same national institutional systems of IR (e.g. Martin and Christescu-Martin 2004, 2006, Trif 2000, 2004). At the same time, in contrast to these authors’ conclusions, which emphasise that the enterprise environment and forms of ownership are the factors driving this diversity, the diversity of unions’ patterns of interest representation goes back to the conflicts and tensions characterising the concurrent development of unions’ organisations, actions and strategies, with these actions, activities and strategies and inter-union conflict itself being undeniably influenced by enterprise contexts. The enterprise environment and forms of ownership are the factors driving this diversity, however, they played an especially pronounced role in two cases of RUCs existing at foreign-owned enterprises, in which the tensions and conflicts between RUCs and ITUs were not present, because no ITUs existed there.

Question 2: How can conflict-articulation practices be institutionalised in the face of the historical dominance of conflict conciliation?

One further argument in the analysis of IR (e.g. Casale 1999) is that, on the macro-level of the system of IR, institutional changes in terms of regulating the conflict of interests have mainly affected the law and only to a lesser extent actual practice because, due to the path-dependent development of trade unions, the newly installed institutions were filled with ‘traditional’ contents and actions. Its effects for actual practice, are however, not deterministic. Rather, they depend on the way in which these institutions are used and turned into resources for action in order to produce certain outcomes of worker representation in different union constellations. At the micro-level, the findings of the dissertation reveal the same diversity of institutionalised conflict in institutions and practices as observed in the unions’ organisational phase in terms of the contents and lines of emerging conflicts. Similar to that organisational phase, at the level of the enterprise, the findings of the case studies show the same constellation of different institutionalised practices - in the case of RUCs, by developing path-dependent approaches of conciliation and conflict containment and by developing ‘on-path’ or, in the case of ITUs, ‘off-path’ approaches of militant articulation of conflicts.

- Path reproduction: on a dominant path, conflict articulation has been institutionalised by means of their containment (e.g. in the case of RUCs this institutional form was also found by Kozina 2001, 2010). The dominant union strategy here was that of social partnership, which presupposed these RUCs’ understanding of conflicts as ‘deviations from the norm’. This union strategy was enforced by the same institutions of labour

collectives and of union-management cooperation (denying union-management conflict), which was also observed during the organisational phases of unions.

- On-path changes: at the same time, changes that are specific to certain individual trade unions are also found, which result from critical external or exogenous events (for instance, foreign ownership of an enterprise) and respective actors' activities and actions. Amongst RUCs, in which institutions of labour collectives and union-management cooperation were losing their self-enforcing effects (as in the case of enterprises under foreign ownership), close contacts to political forces and institutions have still forged the further articulation of conflicts along that given path through the alliances with domestic political forces and state authorities. It was only when these alliances dissolved (as leadership or power relationships within those political institutions change and RUCs are no longer helped to institutionalise those conflicts through the political level) that RUCs developed some basic practices of conflict articulation, such as protests and demonstrations. At the same time, these protests have barely increased the unions' organisational power, so these cases reveal on-path changes without a complete departure from the path.
- Path departure: in the case of ITUs, an efficient system of conflict institutionalisation was created through the practices and institutions of militant conflict articulation. ITUs' militant conflict-articulation practices have been sustained over time and have challenged existing patterns of union-management relations. For instance, in the case of some ITUs (Sukha Balka and the Zaporizya hospital) the same gains in terms of wages and improvements in working conditions that had been achieved earlier through frequent strikes and protests, could later be achieved through negotiations with management without protests.

In contrast to the conflict-free cooperation of RUCs, however, the institutionalisation of conflicts through ITUs forged growing 'symbolic' strength of those ITUs, enabling conflict-based cooperative relationships with the management. This is shown by the development of a more militant organisational phase amongst ITUs (who initially needed to fight, not only for material rewards but also for recognition, by applying militancy literally at every step of their activities) into a more cooperative operational phase. Those militant activities were decreasing in frequency, but material rewards (e.g. payment of wages debts, wage increases) could still be gained with help of more constructive relationships with the management (also stretching into the consolidation phase). This demonstrated that, during the course of their formation, ITUs' militant practices have been institutionalised into more cooperative forms of conflict-articulation that are based on the adversarial relationships surrounding conflicts of interests and the implicit threat of the overt conflict.

Based on these findings, the dissertation concludes that these conflict-institutionalisation patterns have led to the development of sustained union power in participation, bargaining and other forms of union-management exchange. Stating this argument, in turn, rejects the arguments of the inability of trade unions to institutionalise conflict-articulation practices by mobilising the effects of workers' collectivism and self-organised movements (e.g. Ashwin 1999, Borisov 2001, Clarke and Fairbrother 1994). According to those arguments, precisely the inability of trade unions to transform a conflict into an organised collective protest led to the ad hoc eruption of spontaneous conflict as simply an expression of workers' dissatisfaction. As result of this unions' inability, trade unions do not become organisationally stronger through those particular protests, as such protests do not forge the institutionalisation of their organisational strength. Contrary to such arguments, in the case of all ITUs examined in this thesis, after the more militant organisational phase of ITUs, the conflict-articulation strategies of ITUs institutionalised on the basis of unions' threat of the overt conflict. Following this, in light of the findings of the case studies explored here, it can be concluded that new ways of articulating conflict (off-path development) lead to the institutionalisation of new patterns of worker representation (trade unions are strengthened, conflicts of interests are directed into institutional channels and are, in some cases, even created outside of the corporatist framework). Consequently, as this operational phase of trade unions and the practices of the conflict institutionalisation also show, institutional development in post-socialist IR does not mean freezing the modes of conciliatory worker representation within different institutional arenas of IR, including social partnership. In contrast, here, constellations that are specific for each type of trade union are found.

At the same time, the variety of different institutional practices of conflict-institutionalisation at the enterprise level is exposed to interdependency and mutual influences during the concurrent development of different trade unions. In this regard, the dissertation finds that despite a weak political legacy, RUCs' strong organisational legacy and particularly close relationships with management gave RUCs 'early-comer' advantages, including structural, resource, and relational advantages over ITUs. The strong position of RUCs within the IR arenas (when compared with ITUs) explicitly inhibited the organisational development of ITUs in some of the cases discussed here, thus, also quite logically, inhibited ITU-driven processes of conflict institutionalisation. This finding therefore confirms the second hypothesis of the present dissertation.

Under conditions of inter-union rivalry, the immanent conflict observed during the organisational phase, finds clearer expression in this operational phase. The RUCs' considerable positions in IR in comparison to ITUs, allowed them to consistently exclude the ITU from the formal IR arenas including collective bargaining and different enterprise-based commissions. Legal suits filed by ITUs hardly brought about any results and no punishment could be expected on the part of the law enforcement authorities in these cases of legal violations by RUCs due to the lack of the law enforcement in general. This left the aforementioned ITU in a position, whereby they could only continue to articulate conflicts through arbitration or, at best, protests, with the legal activities of the ITU providing the key way to institutionalise conflict, while isolated from collective bargaining.

The instance of conflict institutionalisation discussed above most clearly demonstrates the obstacles to institutionalising conflict in a more militant manner at the national level. Throughout the discussion of conflicts of interest in the first question raised in this chapter a disconnect between the macro-level corporatist structure of IR and the micro-level pluralist structure of conflict representation can be observed; on the one hand, at the macro-level of IR, the collective participation of workers through their national-level unions or union associations is envisaged for the purposes of finding solutions of different conflicts. On the other, inter-union conflicts at this macro-level of worker representation have led to attempts by RUCs to 'freeze' the exclusion of ITUs in the regulatory institutions. This was clearly displayed in the attempts made by successor trade unions to initiate the legislation of representational criteria, which would exclude independent trade unions from formal IR arenas (Chapter 4). In Ukraine, inter-union rivalry peaked with the submission of the 'Bill on Social Dialogue' by the RUCs' national FPU. This law reflected an attempt by RUCs, "to establish [...] a trade union monopoly" (KVPU 2009b). As restrictively high thresholds for participation in bargaining and social dialogue remained at sectoral and national levels, these limits continue to grant RUCs an exclusive right to represent workers at the higher levels of the system. The heavy intertwining of formal institutional structures and these 'informal' practices in the FSU (e.g. Franzen, Haarland and Niessen 2005, Zimmer 2006) has thus generated advantages for the previously existing trade union constellation. While at the enterprise-based level the inclusion of ITUs into IR arenas was possible due to a series of militant actions, inter-union conflict could not be solved in the same manner at the national level, where inter-union conflict was transferred into the regulatory spheres and was handled by means of the complaints to international institutions (i.e. ILO) and court cases.

In contrast to expectations that actors' agency would follow institutional development, as expressed in the corporatist-oriented development of the institutional structure of IR, the findings of this dissertation's research show that, under the conditions of the concurrent development of trade unions and inter-union conflicts, the formal institutional structure of IR essentially becomes the object of such conflicts, projecting into changes in the higher-level institutions. The case study analysis clearly displayed the corrosive implications of these practices for the subsequent institutionalisation of different conflict practices at the system level. Without this recognition, "[...] there can be no hope for the evolution of serious and constructive industrial relations consonant with the economic and social development of the countries concerned" (Casale 1999: 18).

Question 3: What patterns of worker representation have been consolidated on the basis of ITUs' consolidation and its possible impact on RUCs?

Essentially, union identities, the agendas they pursue and the type of power resources they cultivate and apply reflect the specific historical contexts and circumstances in which they have emerged (Crouch 1993 in Hyman 2001, Hyman 1994, 1999). This is Hyman's observation, which has proved true in the cases of RUCs and ITUs emerging in different circumstances and consistently pursuing different logics of worker representation. At the same time, the findings of the case studies have shown that the circumstances of union emergence as such are important for understanding and depicting those logics; at the same time, they do not explain the subsequent development along a certain path. Instead, the capacity of actors to both reflect upon and reproduce, modify and even launch an alternative path in a way that advances the actors' particular goals and purposes has been key for the enforcement of each of these logics, just as the interdependency of the concurrent development of different types of trade unions was under post-socialist conditions. Conforming to Avdagic's (2006) argument, more emphasis on agency and its 'reflexive properties' and conflicts that develop within relevant institutions helps to show the dynamism of political processes that cannot find a reflection in more rigid path-dependency accounts.

In order to include the important element of agency, this dissertation has followed the approach of 'path-dependent path-shaping' (Hausner, Jessop and Nielsen 1995: 8), which combines historical institutionalism with a rational choice perspective (e.g. *ibid*, Avdagic 2006, Thelen 1999, 2002). By helping to integrate the elements of the path-dependent structuring of institutions and agency into the analysis, the focus on 'shaping'

capacities of actors' agency sheds 'new light on the dialectic of structure and strategic action' (Hausner, Jessop and Nielsen 1995: 8). From the perspective of 'path-dependent path-shaping' the simultaneous development of some actors along different, possibly competing paths has not yet been addressed in the literature. It is an important finding of this dissertation that not only agency as such but also inter-union interaction(s) could be recognised. As this dissertation has shown, the concurrent development, tensions and interdependencies between trade unions have a significant impact on the possibilities for the development of each of the paths. The crucial finding is that when the concurrent development of different paths brings the paths into conflict with one another, the collective learning processes and the formation of new actors and identities are inhibited, but not abandoned. As was pointed out in the literature (e.g. Czada 1996), until actors are ready to coordinate and cooperate with each other, no space for actors' learning is possible and, as a result, the previous constellation of actors survives unchanged. In line with the findings concerning the consolidation of different patterns of worker representation, this argument raised in the literature has not proved to be true in this case study of the Ukraine. The space for actors' knowledge and experiences is limited even though, as shown by the dissertation, it is still present.

The union analysis above has shown a lack of such cooperation between RUCs and ITUs that was barely present and certainly not in any substantive measure during their organisational phases. In all cases of ITUs discussed here, RUCs rejected any recognition and cooperation with ITUs during their organisational phases. Inter-union conflicts, pressure on workers to withdraw from ITUs and the exclusion of ITUs from the formal IR arenas by RUCs all resulted in deeply adversarial relationships between both RUCs and ITUs throughout the organisational phases. Here, the patterns of worker representation along each of the paths resulted in isolated activities of each of the trade unions, focusing around only welfare distribution (RUCs) or only conflict articulation (ITUs). In place of collective learning of trade unions, the outcome of the simultaneous development of different trade unions and of inter-union conflicts has thus been the constellation consisting of two competing paths developing within the same enterprise.

The reproduction of welfare functions of trade unions in the regulatory framework and in RUCs' activities has had direct implications for the subsequent development of ITUs leading to their subsequent on-path changes during their operational phase. As ITUs were gaining recognition through a course of militant actions, their relationships with management and RUCs were becoming more stable and ITUs also received access to enterprise- and state-based resources for these activities. The result was the integration

of such activities into the agendas of ITUs, which had previously dismissed holiday voucher distribution as an activity contradicting the purpose of a union organisation. As this shows, the development of alternative paths within a given institutional environment is subject to the tensions and effects of the partially path-dependent environment, which may force alternative paths towards the dominant institutional elements.

In a similar way, two particular cases of RUCs revealed that changes were undertaken 'on-path' with more attention paid to conflicts as part of these RUCs' activities. In both these cases, the positive effects of the concurrent development of RUCs and ITUs were strengthened under the impact of exogenous forces. With the purchase of these enterprises by foreign companies, new conflicts were also emerging, which could no longer be articulated within the borders of labour collectives and union-management cooperation institutions. A departure from their paths could, however, still not be observed in these RUCs. The unity of labour collectives as well as social and welfare-related demands continued to comprise a large part of their bargaining agenda, while wage demands were later also included. This shows on-path changes: the effects of those self-enforcing institutions are undermined as a result of exogenous factors; and under the impact of the forces the changes in the paths were undertaken without abandoning the path's logic. Contrary to the off-path development of ITUs, the effects of the exogenous forces can be mediated in the partly path-dependent operating environments through the possibility of such on-path changes.

At the same time, this did not mean the reaffirmation of behavioural patterns without any changes, even within each single path. Especially throughout their consolidation phases, more constructive relationships started to develop between enterprise-based RUCs and ITUs, showing the potential borders of the consolidation of these different forms of worker representation. Finally, in terms of the consolidation of worker representation, ITUs continued to co-exist side-by-side with RUCs, whereas the spheres of their activities and influence were divided over time according to their strengths and competencies. Overt and open conflicts between these trade unions were dissolving, while the latent conflict immanent to their concurrent development has still remained in place.

Only in case of one ITU has open inter-union conflict persisted even during their consolidation phases. This can be explained by the self-enforcing effects of labour collective institutions and union-administration cooperation, which have bound the

development of this RUC to the given path. Unlike cases with on-path changes, no changes within that RUC took place, even when the RUC confronted the withdrawal of the enterprise resources for welfare activities due to a deep crisis in public services. Despite this, the RUC's orientation towards the unity of labour collectives remains very deeply embedded, which was demonstrated by the RUCs' decision to cover welfare activities from their own funds, in order to preserve the unity of labour collectives. Additionally, the delegation of wage-making policies to national level policy-making led the RUC to abandon any need to challenge wages at the local level. Undeniably, the ITUs directing wage negotiations at the local level with the hospital destroyed the unity of the labour collectives, subsequently re-enforcing inter-union conflict even during their consolidation phase.

Another explanation might be the personal commitment of the leaders of each union. It was not possible to test this additional hypothesis at the level of case studies, although personal attitudes of the leaders of some RUCs and ITUs regarding each other were superficially observed during the analyses of the case studies. At the same time, some preliminary evidence on the validity of this hypothesis can be explicitly found at the national level. Here, the concurrent development of RUCs and ITUs only once developed into the coordination of union activities. This occurred under the Presidency of Yurkin, when the new program of activities and plan of actions for the FPU were also adopted. Under all other periods, the FPU has consistently rejected any cooperation with the KVPU (ITUs' association), and even more categorically in the period following Yurkin's presidency in particular. This shows the degree to which on-path or off-path developments can be rolled back into the previously existing tracks, when the factor which fosters changes – actors' agency – is no longer present in any substantial measure. The emphasis on leadership over changes as related to the personalities of certain RUC leaders has already been observed by Mandel, who pointed out that, at the same time, such agency has been rather an exception in the case of RUCs.

Finally, the patterns of the consolidation of worker representation reflect the division of spheres of influence and activities in those cases of RUCs and ITUs concurrently developing at the same enterprise. During consolidation, RUCs have continued to focus their activities on their welfare function while ITUs have consolidated their conflict function. The inter-organisational conflict inherent in the formation of worker representation has been decreasing, as trade unions have advanced through the formation phases while, at the same time, latent inter-union conflict at the ideational level has persisted. This finding enables one to predict that due to these differences in

the logics of different trade unions changes in the power relations and interactions between RUCs and ITUs will continue to result in different types of IR at the enterprise-based level. As a consequence, the 'segmented' nature of IR will likely continue to shape enterprise-based IR. The outcome is thus worker representation, which combines a mixture of union functions from the traditional function of welfare distribution with the new, developing function of conflict.

The Need for a Differentiated Approach to Post-Socialist Trade Unions and Recognition of the Implications of the Inter-Union Conflict

A differentiated approach to and treatment of successor and independent trade unions is indispensable for analysis of trade unions and worker representation in post-socialist settings. Such an approach points out that RUCs and ITUs emerged at different historical and political moments; consequently, different organisational legacies have underpinned each of their paths of representation. A differentiated approach to trade unions, which recognises the development of unions along two different paths in addition to unions' on-path changes, is necessary in order to understand worker representation in the post-socialist context in a more comprehensive way. These differences in the logics of different trade unions make it impossible for both union movements to consolidate into one unified trade union movement, even in the longer term.

Multi-unionism itself does not necessarily involve inter-union conflicts or inter-union rivalry (Cohen 1975 cited in Harcourt and Lammark 2010) and does not affect any wider class consciousness. Although inter-union competition undermines labour movement solidarity and union effectiveness in bargaining (Harcourt and Lammark 2010), workers may benefit, if inter-union competition leads to greater union efficiency and effectiveness, as unions develop a greater responsiveness to the needs of their members (ibid, Rokhani 2008). The pre-condition for the latter, however, is that "[...] union officials and union members possess sufficient class consciousness, so that conflict between unions improves union performance for the benefit of members, and does not simply destroy the unions concerned, or divert their attention from their core business" (Rokhani 2008: 9). Importantly, under opposite pre-conditions, inter-union rivalry emerges and two or more unrelated labour organisations actively compete "[...] for the control of the workers employed or the work habitually performed within a particular trade or occupation" (Freeman 1989 cited in Pawlenko 2006: 651).

Initially, in their organisational phases, such inter-union conflicts have had little of this anticipated effect, i.e. that the competition of trade unions would result in the improvement of their services. It then had corrosive implications for the development of worker representation. Not only did it undermine the formation of a strong union movement and its solidarity, but also, inter-union conflicts gave employers an opportunity “[...] to ‘divide and rule’ the labour movement by favouring one union over another” (Metcalf, Wadsworth and Ingram 1993 cited in Harcourt and Lammark 2010: 10) and assisting its preferred union by recognising it, while excluding others. The findings of the present case studies conform to these conclusions concerning multi-union representation and the negative effects of intense inter-union rivalry and conflicts between RUCs and ITUs during their operational phases. As Herod (ibid: 151) has observed, “[...] so intense have been these inter-union conflicts that many of the Western trade union organizations [...] now working in Eastern Europe to train unionists [...] have had to run separate courses for officials belonging to rival unions”. In most of the post-socialist countries, the concurrent development of successor and newly established trade unions resulted in the establishment of ‘dual’, ‘bi-polar’ or even ‘triple’ unionism (e.g. Adamski 1999, Arandarenko 2001, Avdagic 2003, Hoffer 1998, Slomp, van Hoof and Moerel 1996). Undeniably, these same inter-union conflicts undermined the formation of a strong union movement in the FSU.

As the analysis has shown, inter-union rivalry has provided the earliest expression of the conflict of interests that has been expressed and articulated within an enterprise and in formal IR arenas. Hence, in post-socialist contexts, the basic conflicts of interest between workers and enterprise management have been key, but the conflicts of interests between successor and independent trade unions have also strongly shaped the formation of worker representation. In post-socialist settings, in the case of alternative paths, the inclusion of conflicts of interests has depended on the outcome of inter-union conflicts between RUCs and ITUs.

The analysis of the present dissertation further shows that alternative paths are still possible to survive sustainably over longer periods of time, in spite of the negative implications stemming from competing versions of multi-unionism. At the same time, this open, organisational inter-union conflict, most clearly observed at the enterprise level, dissolves as the unions advance through various changes and adaptations. Stronger than inter-union conflicts, the abilities and opportunities of these trade unions to develop new paths is not free of all limits or constraints. The alternative paths are subject to the influence of the institutional tensions and pressures embedded in the

operating context, which is, not least, shaped by the concurrent development of trade unions. These tensions and pressures stem from the effects caused by the national institutions, which combine old and new elements side by side in spite of the fact that the institutional and legal framework is similar to those found in the West. They threaten to turn trade unions back to the dominant logic of the overarching system underpinned by labour collectives, social role of enterprises and institutions of union-management cooperation amongst other aspects.

Overall, the dissertation concludes that the development of post-socialist trade unions is not purely path-dependent. As the case of Ukraine shows, changes in the unions' institutions of representation have been taking place. Under the impact of interdependency at the national institutional level and at the level of enterprises and trade unions, the context of post-socialist transformation may countervail union change and have the potential to continue with changes or even departures, especially when power relationships change or critical events unfold. Consequently, within this (re)organisation process of all trade unions, which aimed at developing 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. As a result of the constraints placed on union formation, as described above, RUCs and ITUs 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.

This differentiated approach to post-socialist trade unions and recognition of the implications of the concurrent development of different trade unions is therefore important, as it helps highlight the limitations of the classical IR analysis, which assumes that the only (or at least the principal) social conflict will be between the owners of capital and the labour movement. As stressed by Herod (2003) and also clearly shown by the research in this dissertation, the assumption that the conflicting interests occur in terms of classes alone cannot be used in an unproblematic manner to analyse post-socialist contexts and their IR. Sensitivity to specific geographical, historical and political

contexts is necessary in order to produce more useful and generalisable theoretical results.

Furthermore, this differentiated approach to post-socialist trade unions and recognition of the implications of the concurrent development of different trade unions is also important for pointing out the limits of the narrow path dependence accounts, when attempting to integrate the effects of unions' agency for the institutional development of IR. As the present dissertation shows, the design of the institutional system of IR was important; at the same time, unions' agency has been key in explaining the outcome of post-socialist worker representation. Crucially, this agency has also played out in the consequent changes in the institutional system whereby, under the changing influence of different trade unions throughout this conflict, union pluralism was installed, then retracted, and then this retraction (through restrictions on union pluralism) was itself overturned again via regulatory means. Certainly, there are many more empirical instances, in which the effects of the concurrent development of post-socialist trade unions for the institutional development of the IR system can be distinguished. The findings of this dissertation show that, in the long term, the outcome will depend on the changes to and adaptations of the given paths of union representation. The latter, in turn, will depend on how union agency unfolds within the current and any changing operating conditions.

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