

Forschungsstelle Osteuropa an der Universität Bremen

Research Centre for East European Studies at the University of Bremen

Changing Europe Summer School III Central and Eastern Europe in a Globalized World

Bremen, 28 July – 2 August 2008

sponsored by the Volkswagen Foundation

www.changing-europe.org

Lyudmyla Volynets: Dynamics in Industrial Relations in the Post-Soviet Transformation: The Impact on Trade Unions in Foreign Companies in Ukraine

About the author:

Lyudmyla Volynets is currently writing her PhD in political sciences at the Free University of Berlin, Germany. She is investigating the development of IR in the former Soviet transformation countries with a focus on Ukraine. She used to work as the International Secretary for the Confederation of Free Trade Unions of Ukraine and obtained an MA in Labor Policy and Globalization at the Global Labor University.

Email: lyudmyla.volynets@gmx.de

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Forschungsstelle Osteuropa an der Universität Bremen

Research Centre for East European Studies at the University of Bremen

Klagenfurter Straße 3

28359 Bremen

Germany

e-mail: fsopr@uni-bremen.de

Language editing: Hilary Abuhove and Christopher Gilley

Abstract

This paper looks at the impact of foreign investments on the dynamics of industrial relations (IR) in the post-Soviet transformation. Supported by empirical data from Ukraine (cases covering Lactalis and Arcelor Mittal Kryvyi Rih), it draws attention to enterprise level developments as a key for uncovering the changes in industrial relations that have contributed to the consolidation of IR. Beyond raising some current labour-related issues in post-Soviet countries, it is framed in broader terms by the propositions of the transformation research and debates on the activities of Transnational Corporations (TNCs) abroad. It stresses the necessity of considering past legacies and, based on Huzzard's model of labour strategic choices, it investigates the impact of foreign companies operating in Ukraine upon labour (re)constitution. It concludes by looking at two dimensions of the impact of increases in productivity: positive destruction (whereby old style unions are made obsolete and new unions are possibly established), and offensive re-vitalisation (whereby unions become more active if their functions/activities are rolled back).

1. Introduction: Transformation and Evolutionary Transition Society IR Model

Post-socialist transformation exposes actors in these countries to an extremely dynamic and uncertain environment. Simultaneity and the obstructive effects of the economic, political and societal changes are complemented by actors' opportunism, the ability to influence the rules adopted¹, which legally embed the re-enforcement of traditional relationships and advantages. Even if it is often initially denied², persistent legacies and institutions provide a basis for a flexible transformation³, and a better understanding of the interactions and relationships of the internal and external dimensions of transformation, or emerging hybrid forms⁴, is needed in the research.

In IR we find the simultaneity dilemma⁵ as well: its rules, normative frameworks and pluralist democracy should be established. In the view of time spans, there arise dangers of the adoption of the pre-emptive normative regulation, inter-level (national-enterprise) tensions and discriminating allocation of actors' preferences (including within the labour movement⁶). Whereas on the macro level many structures break down, IR remains fragile and unconsolidated⁷ with weak IR actors, for the latter are hardly able to shape the national decision-making process. The collapse on the micro level created space for micro worlds 'to

1 I mostly refer to Offe, Claus (1994): *Der Tunnel am Ende des Lichts*, Frankfurt am Main: Campus-Verlag, 301. According to him the transformation countries suffer from the dilemma of simultaneity of changes at different levels, whereas different changes may obstruct the changes at another level. He also highlights actors' opportunism in establishing rules of the game.

2 For example, 'capitalism by design' researchers argue for 'institutional vacuum' and the possibility of reforming these countries by design.

3 Grabher, Gernot und Stark, David (1997): *Restructuring networks in post-socialism*, Oxford: Oxford Univ. Press, 349; Stark, D. and Bruszt, L. (1998): Post-socialist pathways, in: *Politische Vierteljahresschrift. PVS ; Zeitschr. d. Deutschen Vereinigung für Politische Wissenschaft*, 41 (2): 284.

4 Arguments on the shortcomings of path dependency and 'hybrid' forms of capitalism are offered by Bohle, Dorothee (1999): *Der Pfad in die Abhängigkeit? Eine kritische Bewertung institutionalistischer Beiträge in der Transformationsdebatte*, in: *Wissenschaftszentrum Berlin für Sozialforschung*, 40.

5 Offe, Claus (1994): *Der Tunnel am Ende des Lichts*, Frankfurt am Main: Campus-Verlag, 301.

6 This can refer to the relationships between traditional and new workers' institutions of interest representation, whereas the conflict between post-socialist (but mostly inert) and newly established independent trade unions is incorporated into the normative framework, with the post-socialist unions possessing an advantage in terms of resources, access to sectoral collective bargaining and participation in the national tripartite consultations.

7 Thirkell, John E., Scase, Richard und Vickerstaff, Sarah A. (1995): *Labor relations and political change in Eastern Europe*, Ithaca, NY: ILR Press, VIII, 197.

produce autonomous effects' and influence the emerging structures⁸. Locally, IR actors are able to shape IR outcome, not least through their strategic choices⁹.

Against this background, the core of IR changes are the depoliticisation (or 'normalisation'¹⁰) of IR through marketisation, privatisation, and the transfer/imitation of Western institutions, not least through foreign companies. If it is based on Western IR concepts and typologies, research on post-socialist IR could omit local specifics. Here, the same concepts may have different contents and meanings for IR actors¹¹, institutions can be simulated¹², and are not backed by the traditions of interest antagonism and conflict articulation. Currently, the reproduced traditional system of IR, the insulation of the traditional social relations of production¹³, socialist legacies¹⁴, the re-enforcement of managers' paternalistic attitudes¹⁵ prevail. New institutions and relationships are non-functional (e.g. corporatist structures) or have been initially rejected (like new unions) by old-style management and unions, and exposed to higher establishment and operational costs. Indeed, when post-Soviet IR emerge into transition society¹⁶, hybridised forms of market-style and statist-socialist labour relations¹⁷, they are characterised by the defensive continuation of interest representation structures, a deficit of representation, the maintenance of the traditional unions¹⁸ and intra-union dynamics. Additionally, the growth of independent unions is expected to drive change within the traditional unions until the point is reached where the pressure on trade unions for change becomes fundamental to their survival¹⁹. This mixture of old and new (indigenous or transferred) elements and

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- 8 Burawoy, Michael und Verdery, Katherine (1999): Uncertain transition, based on the papers presented at the Conference 'Ethnographies in Transition', Lanham [u.a.]: Rowman und Littlefield, VII, 322.
- 9 Trif, Aurora und Koch, Karl (2005): Strategic Unionism in Eastern Europe: The Case of Romania, in: *Max-Planck Institute für Gesellschaftsforschung*.
- 10 Thirkell, John E. und Petkov, Krastyu (1998): The transformation of labor relations, Oxford [u.a.]: Oxford Univ. Press, X, 206.
- 11 This is elaborated within the corporatism debate. Ashwin shows the differences in the meaning of social partnership in Russia as compared to Western Europe, whereas actors perceive the social partnership in terms of consensus at all possible cost, so that the conflict-based relationship is eliminated, and trade unions even may use it as an excuse for inaction. See Ashwin, Sarah (1999): Russian workers, Manchester [u.a.]: Manchester Univ. Press, XII, 202 S.
- 12 A description of simulations is provided by Wittkowsky, who argues that, for example, both institutions and reforms were simulated (for the purpose of political and economic profits; civic organisations [including trade unions], as well as for the purpose of acquiring economic power and money from foreign donors). See Wittkowsky 2000.
- 13 Clarke, Simon und Fairbrother, Peter (1994): Postcommunism and the Emergence of Industrial Relations in the Workplace, in: *New Frontiers in European Industrial Relations*, R. Hyman und A. Ferner (eds.), Oxford: Blackwell, 368–398.
- 14 E.g. Crowley, Stephen (2004): Explaining Labor Weakness in Post-Communist Europe: Historical Legacies and Comparative Perspective, in: *East European Politics and Society*, 18 (3): 394–429; Meardi, G. (2005): Post-communist trade unions: Comparative questions and frameworks, in: *paper presented at the Moscow Workshop*; Thirkell, John E. und Petkov, Krastyu (1998): The transformation of labor relations, Oxford [u.a.]: Oxford Univ. Press, X, 206.
- 15 Clarke, Simon und Fairbrother, Peter (1994): Postcommunism and the Emergence of Industrial Relations in the Workplace, in: *New Frontiers in European Industrial Relations*, R. Hyman und A. Ferner (eds.), Oxford: Blackwell, 368–398.
- 16 Kohl, Heribert und Platzer, Hans-Wolfgang (2003): Labor relations in central and eastern Europe and the European social model, in: *Transfer*, 1 (1/03): 11–30.
- 17 Kabalina, Veronika und Komarovskiy, Viktor (1997): Kabalina, V., Komarovskiy, V. (1997) Transformation of industrial relations and trade-union reform in Russia, in: *Industrial relations between command and market: a comparative analysis of eastern Europe and China*, 195–238.
- 18 Kohl, Heribert und Platzer, Hans-Wolfgang (2003): Labor relations in central and eastern Europe and the European social model, in: *Transfer*, 1 (1/03): 11–30.
- 19 Meardi, G. (2005): Post-communist trade unions: Comparative questions and frameworks, in: *paper presented at the Moscow Workshop*.

institutions, and their reciprocal influences, make up specific CIS dynamics with changes becoming more evident at the micro-level²⁰. So far, the consolidation of the IR model is unlikely²¹.

In view of these shortcomings and the lack of IR research in TNCs, foreign companies are assumed to gain much of 'structuring capacity'²². This is the area to which the current article contributes. It offers an insight into the state of development of IR in foreign companies and the issues described above, with the focus being placed on labour (re)constitution. I will first outline how foreign companies affect on IR in their operations. This will be followed an analysis of the IR dynamics in the former Soviet countries. Further concentrating on labour, I will look at the impact of foreign companies on the (re)constitution of labour in Lactalis Ukraina and Arcelor Mittal Kryvyi Rih and close with my conclusions.

2. Impact of FDI on the Host Countries and the IR Model Employed Abroad

FDI in the post-socialist countries is assumed to contribute to the consolidation of the market economy institutions and influence societal processes beyond the enterprise²³, but may also violate social contracts²⁴. In the context of transformation, countries spread 'plenty of anecdotes of negative experiences', but, in fact, unions do not express 'visceral hostility'²⁵ to foreign employers. In particular, the TNCs' impact on the transformation of the rules and institutions that govern the organisation of work should be considered positively if inter-enterprises relationships are depoliticised²⁶. I understand the impact of foreign companies on IR dynamics as the extent to which changes pursued by foreign owners are accompanied by the transformation of existing indigenous institutions and relationships, and their evolution or decline.

TNCs are most likely to bring about rapid IR change²⁷ and, thus, constitute the most dynamic segment of IR²⁸. Driven by international IR practices, reduction in employment levels and rationalisation²⁹, IR changes usually presume new managerial techniques and representative institutions (e.g. work councils), and demand input from the workers. However, in the post-socialist countries, native personal are often ap-

20 Crowley, Stephen (2000): *Hot coal, cold steel*, Ann Arbor: University of Michigan Press, 277; Mandel, David (2004): *Labor after communism: Autoworkers and their Trade Unions in Russia, Ukraine and Belarus*, Black Rose Books offer examples of unions' modernization and successes.

21 Thirkell, John E. und Petkov, Krastyu (1998): *The transformation of labor relations*, Oxford [u.a.]: Oxford Univ. Press, X, 206.

22 Dörrenbacher, Christoph, Fichter, Michael, Neumann, Laszlo, Toth, Andreas und Wortmann, Michael (2000): Transformation and foreign direct investmenet: Observations on path dependency, hybridisation, and model transfer at the enterprise level, in: *Transfer*, 3 434–449.

23 Dörrenbacher, Christoph, Fichter, Michael, Neumann, Laszlo, Toth, Andreas und Wortmann, Michael (2000): Transformation and foreign direct investmenet: Observations on path dependency, hybridisation, and model transfer at the enterprise level, in: *Transfer*, 3 434–449.

24 Kogut, Bruce (1996): *Direct Investment, Experimentation, and Corporate Governance in Transition Economies*, 293–333.

25 Kubicek, Paul (2004): *Organized labor in postcommunist states*, Pittsburgh: Univ. of Pittsburgh Press, XIV, 256p.

26 Kogut, Bruce (1996): *Direct Investment, Experimentation, and Corporate Governance in Transition Economies*, 293–333.

27 Martin, Roderik und Christescu-Martin, R.A. (2006): *Industrial Relations in Central and Eastern Europe*, in: *Global industrial relations*, M. Morley, P. Gunnigle und D. Collings (eds.), London: Routledge, 86–105; Martin, Roderik (2008): Post-socialist segmented capitalism: The case of Hungary. Developing business systems theory, in: *Human Relations*, 61 (1): 131–159; Sidenko, V. und Kuziakiv, O. (2003): The newly built state and economic institutions, in: *Corporate governance in a changing economic and political environment*, M. Federowicz und R. Aguilera (eds.), Basingstoke: Palgrave Macmillan, 71–99.

28 Martin, Roderik (2008): Post-socialist segmented capitalism: The case of Hungary. Developing business systems theory, in: *Human Relations*, 61 (1): 131–159.

29 Martin, Roderik und Christescu-Martin, R.A. (2006): *Industrial Relations in Central and Eastern Europe*, in: *Global industrial relations*, M. Morley, P. Gunnigle und D. Collings (eds.), London: Routledge, 86–105.

pointed to managerial positions, so that the major impact originates not from new managerial techniques, but from efforts to increase productivity through the abolition of welfare and recreation facilities and lay offs³⁰. Existing trade unions are thus threatened in terms of their usual functions and activities (welfare distribution), and are in danger of becoming obsolete or forced to change.

The mixed results of the IR model employed by TNCs are a result of the complexity of factors (e.g. ownership advantages³¹, the nationality of the company³² and home-country effects³³), with the institutional constraints of the host environments exerting the strongest influences on the model employed. Beyond the social context, political and economic conditions, the patterns of political and economic institutions and, in particular, legacies and 'the extent to which the patterns of authority and interests, institutions and values from the past continue to influence contemporary developments...'³⁴ are crucial for our understanding. The persistence of certain legacies may give foreign companies 'a high degree of structuring capacity at an enterprise (micro-) level'³⁵. By approaching IR in terms of actors' formation, I also show that others can limit the capacity of TNCs once labour (re)constitutes – the process that is partially also facilitated by TNCs themselves.

3. Enterprise-Based IR Patterns as Outcomes of Interactions by Actors in Formation

I approach IR in post-Soviet countries from the point of view of actors' formation and their interactions. While going through the process of formation (be it reforms within or the establishment of new unions), labour influences employers (as employers influence labour) through their mutual interaction – a dynamic that implies changes over time. From this perspective, IR enterprise-based patterns are an outcome of actors' interaction that are facilitated or constrained by the degree of their formation and their interaction. Transformation influences the process of actors' formation by reinforcing or weakening the legacies of the past as necessitated responses to uncertainties and economic hardships of workers.

I follow the processes of labour formation in terms of the model set out by Huzzard³⁶. Accordingly, trade unions shape IR outcomes by means of strategic decisions on four levels: (1) identity, ideology and mission; (2) activities; (3) relations with employers (conflict or cooperation) and with their own membership and other unions; and (4) unions structure, processes and capacities.

The model, however, needs certain corrections in the view of specific contextual circumstances. (1) Whereas trade unions in the post-Soviet countries were quick in declaring their independence from political parties, employers and the state, thereby indicating at least a declared change in their identity and mis-

30 Soviet enterprises used to be heavily overstaffed, and the majority have still retained their workforce numbers even during prolonged crisis.

31 Cooke, William N. (2006): Multinationals, globalisation and industrial relations, in: *Global Industrial Relations*, M. Morley, P. Gunnigle und D. Collings (eds.), Routledge, 326–345.

32 E.g. as Barsoux und Lawrence argue, management styles are shaped nationally in terms of strategic choices, behaviour and problem formulation. See Barsoux, J.-L. und Lawrence, P. (1997): Countries, cultures and constraints [in European business], in: *European management*, M. Warner (eds.), London [u.a.]: Routledge, 570–587.

33 Ferner, Anthony, Quintanilla, Javier und Varul, Matthias (2002): Country-of-Origin Effects and the Management of HR/IR in Multinationals: German Companies in Britain and Spain, in: *Global integration and challenges for industrial relations and human resource management in the twenty-first century*, T. Hanami (eds.), Tokyo: JIL, 132–144.

34 Vickerstaff, Sarah A. und Thirkell, John E.M. (1997): Eastern European Labor Relations: Transference, Imitation and Imposition, in: *Central and Eastern Europe Labor Relations and The Market Economy*, J. Brady (eds.), Oak Tree Press, 15–35.

35 Dörrenbacher, Christoph, Fichter, Michael, Neumann, Laszlo, Toth, Andreas und Wortmann, Michael (2000): Transformation and foreign direct investment: Observations on path dependency, hybridisation, and model transfer at the enterprise level, in: *Transfer*, 3 434–449.

36 Huzzard 2004 in Trif, Aurora und Koch, Karl (2005): Strategic Unionism in Eastern Europe: The Case of Romania, in: *Max-Planck Institute für Gesellschaftsforschung*.

sion, they are (2) reluctant to change the scope of services provided significantly, and retreat from their subordination to employers. The gap between the genuine workers' interests and the readiness of unions to articulate them has, in fact, increased³⁷. The significance of the changes in employer-unions relationships (3) cannot be considered to be on the same level with other relationships (e.g. with membership and other unions) as Huzzard's model suggests. This is due to its specifics: a different dimension of cooperation –loyalty, a lack of adversarial relationships or the outbreak of conflicts³⁸, but instead the articulation through courts and informal bargaining³⁹ broadly shaped by a blind commitment to a consensus-based social partnership. Symbolic reforms within existing unions would not be effective unless the union becomes a membership-driven structure (4). Thus, the level of structure is, for me, necessarily the level of union-membership relations. Finally, Huzzard's model does not acknowledge the importance of (5) how unions acquire resources⁴⁰. Indeed, the use of 'political' resources (personal connections or informal bargaining) and the cultivation of workers' activism and mobilisation of membership constitute another dimension on which unions are expected to choose to change or not.

I will look in the next section at how foreign ownership affects (1) interest (scope of activities and services conducted), (2) unions' relationships with employers (loyalty-cooperation-contention) (3) and their membership, (4) resources, and (5) articulation of contention. I concentrate throughout these points on the extent (i.e. whether they were strengthened or weakened) of the legacies of the past, and try to discern the impact of foreign ownership on its persistence/erosion and effects on labour (re)constitution.

4. The Impact of Foreign Ownership on the (Re)Constitution of Labour in Ukraine: Arcelor Mittal and Lactalis

In the following section, I present the results of my interviews with unionists from different levels, focused on two brownfield enterprises in Ukraine. Both Mittal Steel Kryvyi Rih and Lactalis Ukraina have positions of leadership on the Ukrainian market and are publicly known for their contentious labour relations (in particular, rolling back existing benefits).

4.1. Positive Destruction and the Revitalisation of the Union at Lactalis Ukraina

In the course of the complete plant modernisation and (still on-going) restructuring of work, Lactalis abolished all recreation facilities. This, and the further loss of legitimacy by an existing union, resulted in the continuing withdrawal of members until the union dissolved itself in 2003. Workers did not give up the idea of representing their interests collectively, even though pressure was put on them to do this by the newly employed Ukrainian management. While threatening to launch strikes that would bring significant financial losses for the food processing enterprise, a new union was finally recognised in early 2006⁴¹.

37 Bychenko, Andriy (2001): Ukraine's Trade Unions in Public Eyes, in: *National Security and Defence*, 8 62–69; Razumkov Centre (2001): The State of the Trade Union Movement in Ukraine, in: *National Security and Defence*, 8 (20) 3–62. Both present the results of surveys pointing to the inability of unions to perceive and articulate workers' interest, and that the scope of services currently provided by unions still resemble those of Soviet times.

38 Ashwin, Sarah (1999): *Russian workers: anatomy of patience*, Manchester [u.a.]: Manchester Univ. Press, XII, 202 S.

39 Kozina, I. (2005): Management novykh chastnykh predpriyatiy: praktiki upravleniya v malom i srednem biznese (The management of the new private enterprises: management practices in small and medium enterprises), in: *Praktiki upravleniya personalom na sovremennykh rossiiskikh predpriyatiyakh (Personal management practices in new Russian enterprises)*, V. Kabalina (eds.), Moskau: ISITO, 6–35.

40 Trif, Aurora und Koch, Karl (2005): Strategic Unionism in Eastern Europe: The Case of Romania, in: *Max-Planck Institute für Gesellschaftsforschung*.

41 A similar situation can be found in that of the newly established union of the employees of Lactalis Ukraina which is basically the sales department of Lactalis Mykolaiv the correspondence of the union is available at <http://lactalis-syndicat.org.ua>.

Interestingly, at the beginning the French management did not pay any attention to is there any union or not but started to use the Ukrainian management when the union got stronger. A particular characteristic of post-Soviet countries is that membership of new unions tightly correlates to job security – those who decide to join an independent or new union are the first to be dismissed⁴².

The first issue of conflict – collective bargaining – was articulated through national conciliation bodies – a collective labour dispute was recorded with the National Council of Mediation and Conciliation⁴³ and resolved a year later⁴⁴. Collective agreement was extended so that the union's demands – legal guaranties, wages structure, premiums, bonuses and medical insurance – were incorporated. Through negotiation, workers won wage increases of 3% as well as additional payments, premiums and bonuses, which together brought about a small rise in real wages. Despite the fact that Lactalis did not join an Employers' Association (and thus, is not covered by the branch agreement), the negotiated premiums slightly exceeded those set by the branch agreement and Ukrainian law. Here, the legacy of the formal bargaining process, which was once common, was abandoned. Additionally, the assertiveness of unions' demands and the strict enforcement and monitoring of the law signal a retreat from the legacy of the paternalistic expectations of the state⁴⁵. However, other legacies, for example the organisation of recreation and holidays, still persist. They are conceived as 'normal' activities by the union, and even independent unions are involved in this as without these services the membership can lose interest in the union and perceives it as weak.

Foreign owners/managers, according to many unionists, are easier to deal with than Ukrainian natives. Although they are criticised for their way of managing work, foreign managers are seen as better because they recognise and interact with labour as with an equal partner, and not a subordinate, body. Foreign managers may facilitate union (re)constitution – through the introduction of works councils⁴⁶, which are often seen as yellow or pocket unions and perceived as rivals. The introduction of a works council at Lactalis Mykolaiv in response to the revitalisation of union activities and the aggressive anti-union attitudes provided further incentives for unions to stay active; thus 'rivalry' can act as an incentive towards the union adopting a more pro-active policy.

The union's permanent involvement with membership filtering (of active and lapsed membership) is a novelty. Its membership-driven structure is characterised by the leadership's high degree of accountability to its members. Since 2006, it has removed three presidents as none of them could satisfy union members' expectations and vision. Although this represents progress in terms of union modernisation, the union still suffers from common problems. Workers are reluctant to detach their consumerist attitudes to the union and lack awareness and experience of collective interest representation. This spreads disillusionment to-

42 Key sectors in the region – wine and food production, ship-building and agriculture – were literally destroyed in the first years of transformation. The majority of enterprises here were intentionally brought into insolvency in order to be privatised cheaply by its former management, and continue to suffer losses. If they have been transferred into the foreign ownership, for example the ship-building or food processing enterprises, the firms renew their work and extend the employment rate. But the inflow of foreign investments remains very low. The official unemployment rate lies at around 11%.

43 The National Council of Mediation and Conciliation (NCCMC) was established in Ukraine in 1999 (in accordance with the Law of Ukraine 'On the Collective Disputes Resolution Procedure' dated of 03.03.1998 and the President's Decree 'on the Establishment of the NCCMC' dated of 17.11.1998) and is a permanent state agency that is responsible for the resolution of collective labour disputes (conflicts). See <http://www.nspp.gov.ua/?s=2>.

44 See the NCCMC' Decree Nr. 20 dated of 22.08.07 on the registration of the collective labour dispute at Lactalis, at www.nspp.gov.ua.

45 Ukrainian labour law sets out a broad scale of guaranties to workers and allocates a lot of authority to unions, but lacks powers of enforcement and is exposed to deregulation with the abolition of many workers' and unions' rights. The current draft Labour Code has been criticised by unions for establishing a 'feudal order' and drastically restricting workers' rights, as, for example, in the statement of the Confederation of Free Trade Unions of Ukraine dated of 17.04.2008, available at <http://www.kvpu.org.ua/news/17%20kvitnia%202008.html>. The law can also be manipulated easily or influenced by business lobbies. In this context, the guaranties set by law remain only on paper unless workers and unions themselves demanded them.

46 For example, such practices are known at the Volkswagen, Leoni operations from my previous research.

wards the union's efficacy and the success of collective action, bring about a loss in legitimacy, not only for unions, but also for the institution of collective interest representation in general. Against the broader perspective of the 'mental climate' of the transformation societies⁴⁷, for example the scepticism towards any organised participation, learned helplessness, passivity and reluctance to act⁴⁸, it is quite difficult to raise the level of activity among employees.

The second part of the problem is leaderships' low level of knowledge, skills, abilities and commitment. The Soviet system of educating leaders broke down without being replaced by a new one. Commitment is also often lacking among unionists from those times. Presidents and unions leaders sitting in provincial, sector and rural union committees are, in general, over 55 (some even over 70); accordingly, they are inert and reluctant to raise the awareness of their constituencies and promote the unions' activities. Therefore, the urgent need to educate and raise the awareness of workers, and cultivate their willingness to act, is not met by the union themselves: 'we [the unions] destroy ourselves'. The inflow of young activists and leaders, who are the most likely to bring about changes, remains quite low.

The Lactalis union, as a newly established union, is free of the legacies of possessing the traditional resource of political and personal connections. Equally, it was not influenced by the legacy of cooperation with the management –this was exactly the ideological motive behind the establishment of the union. As can be seen from the filtering of the membership (mentioned above) and permanent scrutiny of the members' readiness to act (e.g. in protests), adversarial methods of articulation and the use of worker militancy is still viewed as secondary to the legal resolution of conflicts. However, the choice of the means of articulating demands depends on the issue in question.

4.2. The Revitalisation of Unions Activities with the Reliance on Political Resources at Arcelor Mittal Kryvyi Rih (AMKR)

The steel mill formerly known as Kryvorizhstal is the biggest in the mining and metallurgy sector with the 20% of the market share and monopolistic hold on certain goods. After 'political' privatisation (characterised by the initial falsification of the privatisation process), Kryvorizhstal was re-privatized and sold to Mittalsteel (currently Arcelor Mittal) in 2005⁴⁹. Kryvorizhstal currently has a profitability rate of 40–50%.

Productivity increases were achieved through lay offs of the heavily oversized workforce⁵⁰, while almost no restructuring or technical innovations took place. The freedom to lay off workers was restricted by an investment agreement with the Ukrainian government initiated by the unions. Initially, Arcelor Mittal was obliged to retain 56,000 employees over the next five years, but the company reduced this number to 45,000 through voluntary retirement schemes. Interestingly, the unions did not agree with the management's offer of around 20,000 USD in compensation to workers, but demanded an experience-based scale of compensation, so that only those who had worked for over 20 years could receive such payments, whereas others were paid even less.

The majority of employees (including the technical and department directors) are organised into the post-socialist trade union. Two other independent unions exist at the enterprise, but are exposed to pressure from both the management and the large union and hardly have any impact on decision making.

47 Nikula, Jouko (2002): Introduction, in: *Restoration of class society in Russia? (clone)*, J. (Nikula (eds.), Aldershot [u.a.]: Ashgate, VII–XVI.

48 E.g. Hausner, Jerzy, Jessop, Robert Douglas und Nielsen, Klaus (1995): *Strategic choice and path-dependency in post-socialism*, Aldershot, Hants [u.a.]: Elgar, XIII, 330.

49 The previous bidder had acquired the mill in 2004 for \$800 million after bids nearly double in size were disqualified due to controversial sale conditions. Mittal offered \$1.5 billion to buy the plant in the earlier tender. See Kyiv Post, 15 June, 2006, available at www.kyivpost.com.

50 In 2005 the plant employed many more workers in comparison to Western European enterprises, and roughly double the number for its needs. See Kyiv Post, 01 February 2007, available at www.kyivpost.com.

The post-socialist union foresaw the potential implications of foreign ownership under Mittal Steel and did expect its benefits and rights to be rolled back, as had been the case with Mittal Steel Kazakhstan. It strived to retain its benefits with the state's political support (in the form of the State Property Fund) and the inclusion of their demands in the investment agreement. Given the large amounts (hundreds of millions of Hryvnyas) paid to the unions for different services (e.g. 0.3% of a worker's wage, as dictated by law, go to cultural activities, and 0.6% are spent on social services) and the retention of recreational facilities, the unions' most powerful motive seems to have been less the real interests of the workers and more the preservation of their own status.

As with other issues, increases in wages (AMKR employees are the best paid workers in metallurgy⁵¹) and health and safety demands were, on the whole, not achieved by pro-active collective bargaining, but more via political channels – unions lobbied the state to monitor closely AMKR's implementation of its investment obligations⁵². This prioritisation is characteristic of the union's closeness to the state, to which it turns before its own members; this, undoubtedly, is an indicator of the strength of the socialist legacy.

In its work, the union still concentrates strongly on the provision of workers' basic life needs through the enterprise. In comparison, the demand for a wage increase of 25 % (compared to inflation of 18–20%) last year was unsuccessful; instead, the management granted a rise of 20%, which in terms of real wages meant only a small increase. All those benefits provided now are in question as they currently amount to hundreds of millions Hryvnyas (tens of millions dollars) and are mainly institutionalised in the investment agreement which will come to an end in 2010.

None of initiatives for the reform of the union originated from rank-and-file workers. Once workers' material needs have been satisfied, they are reluctant to think about freedom or democracy. Instead, the impulse to the revitalisation of the union come from the 'irritant' factor of foreign ownership, against which the union has to work out new responses and extend its activities. Additionally, there is inter-union rivalry that threatens the legitimacy of the existing union⁵³. However, considering the very small membership rate in new unions (around 40 people in both unions), inter-union dynamics remain quite weak, so that the major explanation for changes can be attributed to foreign ownership.

The AMKR union is still a leadership (as opposed to membership) driven structure, struggling more for its status than for its base. Vice-Presidents of the trade union refuse to speak on unions' behalf without the permission of the union President – a fact that points to the strong and rather authoritarian position of the union President who is strongly delegitimised among city dwellers due to his business and mafia activities. Union members (which basically refers to everyone) have a double identity. They do not know whether they should speak as employees or as union members and do not feel comfortable when criticising the union in public – something strongly reminiscent of behaviour in a socialist society. Members' passiveness and reluctance to act are also common problems. At question is, however, the freedom allocated to workers to shape the union in terms of their interest and needs and away from the post-socialist visions. Hardly any freedoms are allowed for independent representation and workers are discouraged from joining the new unions.

The AMKR union still continues to rely on the 'political' resource. This legacy is also reflected in the union's reluctance to motivate and mobilise thousands of their membership – a quite strong base for union activities. Without denying the benefits of such political cooperation (as with the SPF), the lack of an active and militant membership base puts in question the sustainability of unions' successes and achievements. At the same time, the union's cooperation with the political agencies is likely to re-enforce the internal gap between the leadership and the membership, and increase employees' reluctance to stand up for their

51 Metallurg, 25.05.2006, available at <http://www.arcelormittal.com.ua/index.php?id=12>.

52 Metallurg, 11.03.2006, available at <http://www.arcelormittal.com.ua/index.php?id=12>.

53 For example, the post-socialist union, in order to make a display of activism, organised a protest meeting in front of the enterprise shortly after a visit to the enterprise by the representatives of two independent union confederations.

rights, because workers expect the benefits to be given (by the state) than to be won through their own action.

As was mentioned above, in spite of all these shortcomings, the adversarial interaction of the union with the AMKR prevail at the top (foreign ownership) level, as the rights and benefits of the union are under threat or being rolled back, and so the legacy of union-management cooperation is absent. However, the contentiousness is either channelled out of the enterprise to the level of the state, and thus articulated politically, or is solved at the same level, not least due to persisting traditions of informal bargaining and cooperation with, for example, technical and department directors. Managers at these levels still remain union members. Employees themselves prefer to avoid the word 'conflict' as there are no issues where workers would take industrial action before a solution could be found. There are no union protest activities to report on. Where protests were declared (e.g. demanding premiums for 2005), they were postponed and never took place, as the union's demands were partially met⁵⁴. Instead the struggle was directed towards lobbying the SPF, but no action was taken. The union is not going to become 'radical', or organise a protest because of the danger of machines stoppage and difficulties in mobilising the membership. People are reluctant to participate in industrial action and as a result of the fear of losing their work prefer to remain silent. Around 5% of members are active and would support collective action.

5. Conclusions: Both Cases Compared

Due to the correlation between privatisation and the roll back of guaranties, foreign companies often unintentionally act as the stimulus to either the revitalisation of the union or its dissolution. First, recreation and holiday facilities attached to enterprises are attacked, sometimes rendering the union either obsolete (if it is reluctant to reform) or spurring it to become more pro-active. Whereas none of such facilities remained at Lactalis, AMKR still possesses them, at least until 2010. Together with lay offs and low wages, this normally provokes a defensive reaction from the unions, so that this 'irritant' is often a major stimulus for unions to respond, learn and change.

My case studies reveal two implications of this 'irritation', which are examples of, and by no means exclusive explanations for, the impact of foreign companies on labour. A union which is not able to respond to an offensive is likely to disappear or dissolve, as the case of Lactalis shows. Workers may turn away from collective interest representation, but are sooner or later forced to think about trade unions again if wages are low, the director is despotic or working conditions are bad. The union, which initially presented itself as strong (be it in terms of political ties or worker militancy) and survived the change in ownership is more likely to adapt to changes, as the AMKR example shows, and extend its activities, but still reluctant to modernise in terms of the dynamics of its structure and membership.

In this way, I consider the impact of foreign ownership for the (re)constitution of labour in terms of (1) positive destruction and (2) defensive revitalisation. In the first case (Lactalis Ukraina), a weak union does not sustain the restructuring process, and is self-destroyed. This is mainly because the union is unable to extend the scope of its activities and becomes obsolete as it is now deprived of its functions in social security (which are taken over by the state) and welfare (as the facilities are shut down). After this, it does not possess enough resources to ensure its further existence. If they have (comparatively) low wages, workers are likely to (re)unionise. However, where there are comparatively high wages and weak local markets, workers will rather pursue their interests individually.

The dissolution of the inert structures of union representation resulting from ownership by foreigners 'who think differently' can facilitate the (re)constitution of labour and reshape recruitment and collective representation so that it fits Western models. It is also likely to eliminate some of the legacies of socialism, for example, cooperation with the management, and force unions to take more action. However, unions are also simultaneously being compelled to strengthen aspects of this tradition, such as members' expect-

54 Metallurg, 27.11.2006, available at <http://www.arcelormittal.com.ua/index.php?id=12>.

tations of leisure and recreation activities, in order to regain their lost legitimacy. My experience shows that this is an effective means of (re)gaining legitimacy and a popular measure used by workers to assess the strength of unions.

The second case – defensive revitalisation – refers to the extension of the scope and the intensification of unions' activities in response to the employers' offensive ('irritation') against the unions' status. In such cases, one can still expect unions to display the relatively strong impact of the socialist legacy in that the union is likely to employ traditional resources – political connections and the paternalistic state – in their interaction with foreign owners. The union will even attempt mobilisation if certain material benefits are cut; however, this might still bear a formal or symbolic character. The sustainability of such IR patterns is in question as the institutionalisation of the unions' demands through the investment agreements generally only cover the next few years. Often unions do not know themselves what will come afterwards. Because they blindly adhere to the ideology of social partnership – consensus at all cost – their attitudes to mobilisation are further constrained by the employees' reluctance to act.

My results agree with Kubicek⁵⁵ in that they show that labour perceives foreign management as the one easier to negotiate with than native managers are. However, my research was focused on the incentives for unions to work out new responses and to break legacies originating from the erosion of social contracts and breaks in common guaranties that reflect the positive impact of TNC. Where stimuli do exist, it is the choice of the leadership and membership to take advantage of them or not; but the course taken depends on a broader scope of factors. Undeniably, the processes of (or reluctance to accept) change is not simply the product of the effects of foreign ownership. For example, inter-unions rivalry is another reason for traditional unions to adapt or disappear, which in turn creates space for new unions. Important, too, are the lack of an experienced and committed leadership capable of adapting to the new circumstances, and the constraints on reforms played by higher levels leaders⁵⁶. These issues are beyond the scope of this paper.

55 Kubicek, Paul (2004): *Organized labor in postcommunist states*, Pittsburgh, Pa: Univ. of Pittsburgh Press, XIV, 256 p.

56 See examples presented by Mandel, David (2004): *Labor after communism: Autoworkers and their Trade Unions in Russia, Ukraine and Belarus*, Black Rose Books.