

**INCREASING WORKERS' PROTECTION  
IN THE RUN UP TO EURO 2012:  
THE CASE OF UKRAINIAN STADIUMS**

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## **SUMMARY**

The preparations to Euro-2012 in Ukraine have been consequently accompanied by controversies around country's capacity to host the mega sport event. Their slow progress and the contradictory process of the allocation of tender agreements for the (re)construction of the infrastructure has proved to be extremely non-transparent, uncertain, and even sometimes bizarre. The Ukrainian government has frequently delayed the beginning of construction works, hence making the hosting of Euro-2012 even a more challenging task. In particular, it applied that the construction works at stadiums, airports and further infrastructure should proceed day and night in order to finish stadiums on time. In such constellation working hours, health and safety issues as well as labour protection are threatened to be second-ranked.

In the framework of the Decent Work Campaign promoted early this year the Construction and Building Materials Industry Workers' Union of Ukraine (CBMIWUU), in cooperation with the Friedrich-Ebert-Stiftung Regional Office for Ukraine and Belarus (FES) and the Building and Wood Workers International (BWI) committed themselves to "picture decent work in the construction sector towards and beyond 2012". Unions adopted a multi-dimensional strategy which addresses the collective responsibility of different stakeholders: governments and regional authorities, UEFA and Ukrainian football federation, construction sector employers, as well as unorganized construction workers. The campaign aims to tackle different work-related issues – from zero work accidents, over free exercise of the right to join unions, towards better skill development opportunities, new workplaces, and decent wages paid on time.

Undoubtedly, none of campaigning can be effective unless it increases the degree of workers' protection and representation, normally, by means of organizing those that are yet deprived of any protection whatsoever. Thus, a part of the union strategy framed by the descent work campaign aimed at organizing construction sites workers. The first results of such work could be already seen in the capital city. A local union was recently established at the construction site of the "Olimpiysky" stadium in Kyiv. But is organizing enough to achieve the increase in workers' protection at the background of local specifics of the trade union movement? While emphasizing the increase in workers' protection, campaigning around Euro-2012 addresses in broader terms the issues of the trade union revitalization in Ukraine. Unlike in the developed countries where the revitalization issues are tackled from the established positions of labour strengths, trade unions in Ukraine find themselves in the position of weaknesses. Hence, by means of the campaign unions aim to strengthen their position and spur their activities over the borders of the capital city to

the other regions involved. This report places union activities related to Euro-2012 into a broader perspective of union revitalization. A more comprehensive revitalization perspective, as it is developed here, embraces not only organizing unorganized but also some needs for “organizing organized”.

Legal and institutional framework of IR in Ukraine and Euro-2012 offer a unique opportunity structure for trade unions. However, Ukrainian pro-worker laws and collective bargaining institutions have not proved effective, so far, in ensuring the implementation of workers’ rights. Neither could they guaranty decent wages and their payment on time. In the view of “the compliance by demand”, that have characterized the Ukrainian state of law, the enforcement of labour rights is pre-conditioned by the collective organization of workers. Where it is present (in approximately 30% of the sector employment that is organized into the CBMIWUU) unions urgently need to consolidate their activities. The consolidation of the existing union activities and structures has become detrimental for union abilities to achieve decent work opportunities. Where it is lacking, workers could benefit neither from laws nor from collective protection. Hence, all those outside unions, those in small enterprises, and in particular, in informal economy, have been deprived of any benefits.

The case studies of the three stadium construction sites (in Kyiv, L’viv, and Kharkiv) investigated more deeply into two aspects of union activities – consolidation of existing structures and expansion into a non-organized realm in the context of Euro-2012. Only organized workers who are really drawing on their rights could have benefited from Ukrainian laws, labour standards and collective agreements. So, the specifics of horizontal and vertical inter-union relationships like inter-regional union cooperation, bottom-level union activities, and union-workers interactions constitute the one part of this investigation identified under the title consolidation. Throughout the case studies of the three construction sites in L’viv, Kyiv, and Kharkiv, the paper then discovers specific consolidation needs of the CBMIWUU. Another part of both theoretical and empirical investigation referred to the identification of problems and obstacles of organizing across the construction sites. As all General Contractors turned out to be unionized, the research then looked at their practices and experiences in organizing given the assumption of more organizing work needed down the subcontracting chains. Based on the generated empirical data the paper concludes with some (but in no way exhaustive) recommendations for the revitalization of the trade union movement in construction at the background of Euro-2012.

## INTRODUCTION

With the advance of globalization the situation with basic workers' rights is deteriorating. So, at present the promotion of core labour standards still remains an urgent need in almost all countries of the world. Instead of providing more equal distribution of income globalization has rather excluded a large majority of people from its benefits. These people want stable jobs, decent wages, opportunities for improvement, unemployment benefits, safe and healthy working conditions. The mission of Friedrich-Ebert-Stiftung is to support the worldwide introduction of decent labor standards. To this end Friedrich-Ebert-Foundation in cooperation with trade unions participates in the implementation of the project „Euro Cup 2012 in Poland and Ukraine: Campaigning for Decent Work“, the part of which the present study is.

Hosting of mega sports events (e.g. Olympics, Euro and World football championships) offers many opportunities for different stakeholders of any country. In particular, in construction, the preparations include huge investment projects and big volumes of construction works. However, the public exposure of such events and high volumes of public procurement of works and services have not resulted in guaranties of decent working conditions and decent wages. Any violation of rules of the football game is threatened by a yellow or a red card, and so, exclusion from the playing field. Surprisingly, however, the violation of labour standards could have been practiced on the broad scale, and governments have proved reluctant to put up red cards to violators. Precarious forms of employment, that have characterized construction over some time, are even further exacerbated here, as cost of investments is high, the competition for a share of pie is hard, and deadlines are usually tight. Hence, construction workers' unions were challenged more than ever to organize workers and demand that the fruits of mega sports events also benefit workers. At the example of Ukraine, this research project aims at assisting the Construction and Building Materials Industry Workers' Union of Ukraine (CBMIWUU) in its effort to increase the representation and protection of construction workers building for Euro-2012, and in its intention to ensure the implementation of labour standards across the construction sites and subcontracting chains. In broader terms, this research contributes to the debate on the issues of the revitalization of Ukrainian trade unions. Its central argument embraces not only the need to organize, but also the urgent need to consolidate existing union organizations. At the example of the three construction sites of the future Euro-2012 stadiums it identifies some specifics of the revitalization process.

## CONCEPTUAL APPROACH OF THE STUDY

The current section develops a conceptual approach to the issues of union revitalization in Ukraine. The approach suggested fits into the broader scientific debate on trade union revitalization that has since recently characterized the Industrial Relations (hereafter IR) research. It also draws on the assumptions and conclusions of the literature on the transformation of IR in the conditions of the system change. The combination of the both strands of literature allows to adjust the revitalization arguments advanced so far prevalently in the Western European and American scholarly to the local specifics of the Ukrainian trade union movement.

### **Dynamics in Industrial Relations across the Commonwealth of Independent States**

Once the socialist regimes across the Central and Eastern Europe (CEE) collapsed so unexpectedly Industrial Relations (IR) were assumed to automatically transform into market-style relationships<sup>1</sup>. Hence, the structures and framework for the IR were set by the governments in resemblance of those found in the capitalist economies of the Western Europe. Later analysis of IR revealed the co-existence of the previously existing IR elements with the newly introduced ones. In particular, for traditional sectors of economy it was maintained that IR were insulated and “at the enterprise level are more likely to be inertial and dependent on logics of actions inherited from the planned economy period”<sup>2</sup>. Inertia was also claimed for trade unions’ and their leaders’ visions of IR<sup>3</sup>. This regulated segment of IR (mostly in big (former) state enterprises) was contrasted by unilateral and individualized IR in the emerging private and informal economy. Neither of the latter was consistently addressed by the unions so far<sup>4</sup>, and so, remained in practice unregulated.

In the view of the above, and accounting for the on-going transformation in Ukraine the current state of IR has been treated as fluid and “transitional”. Hence, IR were rightly characterized as “... diverse transitional, hybridized forms of market-style and statist-socialist labour relations”<sup>5</sup>. At the background of such characteristics context-tailored union revitalization approaches are needed.

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<sup>1</sup> Thirkell and Petkov (1998, Aguilera and Dabu 2005)

<sup>2</sup> Aguilera and Dabu (2005: 27, Clarke 1996, Thirkell, Scase and Vickerstaff 1995)

<sup>3</sup> e.g. Clarke and Fairbrother (1994, Vyshnevs'ky, Mishenko, Pivnyevet al. 1997, Varshavskaya and Donova 1996, Ost 2009, MacShane 1995).

<sup>4</sup> There were some ad hoc initiatives to organize informal economy workers, but this was not incorporated into union policy on a more consistent base (e.g. see Glovackas 2005).

<sup>5</sup> Kabalina und Komarovsky (1997: 236, Pollert 2000, Kohl und Platzler 2003).

## **The state of the trade union movement**

The reforms induced by the transformation towards capitalism weakened trade unions in their protective capacity. The statements on union weaknesses have relied on the macro-level work indicators (incl. declining wages, growing wages arrears, and increasing unemployment)<sup>6</sup>. Unions seemed to have little impact into the policy-making, and were “...unable to shape conditions of work and public policy in accord with their interests”<sup>7</sup>.

The poor record of social partnership aimed at the regulation of employment-related matters across CIS demonstrated its failures in establishing itself as a regulating mechanism<sup>8</sup>. Its deficits were initially allocated to the capacity of social partners to contribute to and to implement tripartite arrangements. Even though social partnership facilitated the institutional survival of trade unions<sup>9</sup> they were yet unable to enforce the tripartite arrangements as they lacked the support from the base. On closer inspection, however, it becomes clear that the deficits of the social partnership as a regulating mechanism should be accorded to its disconnection from the necessary micro-foundations – strong and shaped actors and effective collective bargaining. Without these pre-conditions social partnership was claimed to “remain fiction, a fig leaf for the social coercion of old”<sup>10</sup>.

In particular, consensus-oriented approaches to IR were frequently interpreted by unions in a manner that has been non-conducive to their revitalization. At the background of unions’ reluctance or incapacity to act as genuine workers’ representatives it led unions to justify their collaborative relationships with employers and the state while escaping the articulation of workers’ discontent. In a way, social partnership acquired negative connotation stressing inactivity, and the lack of trade unions autonomy. As “an excuse for inaction” it re-enforced “the unions’ historic dependence on the state and employers”<sup>11</sup>. In the meanwhile workers were further distancing themselves from the articulation of their interest through unions.

The introduction of the general regulating framework in the form of tripartite policy-making took place in CIS at the point at which labour has not yet finished its formative processes. Some structural (and sometimes cosmetic) reforms within trade unions were not enough

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<sup>6</sup> e.g. Siegelbaum (2004).

<sup>7</sup> Crowley und Ost (2001: 219-220).

<sup>8</sup> e.g. Hethy (1994, Casale 1999, Ost 2000, Ashwin 2004, 2007).

<sup>9</sup> Ashwin (2007).

<sup>10</sup> Kabalina und Komarovskiy (1997: 237).

<sup>11</sup> Ashwin (2004, 2007: 329).



to conclude that unions now match new demands imposed on them. It becomes evident once the progress of such reforms is evaluated through the prism of the sources of unions' power<sup>12</sup>. Unlike the capitalist system, in which unions' power has been contingent on workers' activism, under the socialist system such attempts at activism were suppressed. Socialist unions were designed to discipline workers (in contrast to defending them), and so, the functions allocated to unions had little to do with wages and job security<sup>13</sup>. Hence, old-style unionism could even be characterized as "anti-unionism"<sup>14</sup>.

The accounts on the state of union have been elsewhere overflowed by arguments on unions weaknesses<sup>15</sup>, and regrettably, few examples of union successful transformation<sup>16</sup>. Whether these weaknesses are caused by the external constraints posed by the system change, or due to the continuity of unions' traditional approaches to IR can be debated. Certainly, both played out in the current state of the union movement. Legacies of enterprise paternalism and the cooptation of organized labour by the state were as little conducive to the transformation of unions as the lack of the unifying ideology and class-identity<sup>17</sup>. But, surprisingly, the literature missed a detailed and in-depth analysis of the kind and degree of union-inherent weaknesses, exceptions notwithstanding. The recognition of the failures at acquiring autonomy, practicing a poorly servicing model of unionism, and just giving appearance to conflict articulation through channelling it to courts require the transformation strategy that would tackle these deficits in a comprehensive manner.

The issues of union autonomy are central to both analysis of union weaknesses and the debate on union revitalization. "The anatomy of union subordination"<sup>18</sup> originates, first of all, from weak relationships with union members and locally results in the intensification of union dependence on management post-1991. Consequently, the way for Ukrainian unions to break out of such position pre-supposes the strengthening of union-members relationships and intra-union structures, and the sensitization of workers on their rights. Unlike in case of external constraints these choices are in unions' hands. But it should be admitted that surprisingly few attempts were made by unions in this direction.

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<sup>12</sup> Here I refer to the conceptions of unions' power originating from the membership's willingness to act as they were developed by Offe und Wiesensthal (1980), and taken further later on by Kelly (1996).

<sup>13</sup> A comprehensive account of union's roles and functions under socialism is suggested by Ashwin und Clarke (2003), Rippe 1985, Vyshnevs'ky, Mishenko, Pivnyevet al. 1997, Schienstock, Thompson und Traxler 1997.

<sup>14</sup> Vyshnevs'ky, Mishenko, Pivnyevet al. (1997) conduct a multi-level comparative analysis of union activities in both socialist and capitalist countries. He concludes the complete "mirrored opposition" between unions under the capitalist and socialist systems on four dimensions: function, organization, values, and evolution.

<sup>15</sup> E. g. Arandarenko (2001), Crowley and Ost 2001, Crowley 2004, Grdesic 2008, Ost and Crowley 2001, Ost 2001, Pankow and Kopatko 2001, Pollert 2000, Stein 2001).

<sup>16</sup> Clarke, Fairbrother and Borisov (1995), Mandel 2004, Kubicek 2004, 2007).

<sup>17</sup> Crowley (2004, Ost 2005, 2006).

<sup>18</sup> Ashwin (2007).

## **Actor-centred perspective and the revitalization debate**

Within the tight external constraints trade unions were hardly recognized as actors that are able to make strategic choices. Those union choices identifiable so far, hardly addressed the issues of union revitalization, except some structural reforms. For example, in their survival trade unions have continued to draw on traditional resources (e.g. labour-management collaboration, the accumulation of the resources to serve second-ranked members' interests). This choice, however, has not addressed unions' revitalization needs.

### ***Strategic choices***

In line with these strategic choice arguments<sup>19</sup>, unions are able to strategically<sup>20</sup> choose on different dimensions like union identity and mission, organizational structure and governance, different sets of relationships (with employers and state) and activities. So that even within non-supportive external constraints trade unions have "a hand in shaping their own destiny"<sup>21</sup> and can achieve successes at revitalization<sup>22</sup>. In other words, Ukrainian unions can (and should) impact on the structures and relationships that the IR system comprises in spite of transformation hardships.

### ***Revitalization***

Revitalization literature<sup>23</sup> also takes such actor-centred perspective. Generally, union revitalization entails initiative and efforts of labour organizations "to strengthen themselves by redefining their relations with other actors on whom they regularly depend for resources..."<sup>24</sup>. So far, the revitalization debate found not much prominence in academic writings of CIS, so that assumptions and conclusions derived by the Western European and American writings need to be re-evaluated at the background of Ukrainian specifics with more scrutiny.

### ***Strategies of union revitalization***

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<sup>19</sup> Huzzard (2005, Huzzard, Gregory and Scott 2005, Trif and Koch 2005, Behrens, Hamann and Hurd 2006, Crowley 2000).

<sup>20</sup> Trade unions have discretion over their choice and their choices have an impact on the other IR actors.

<sup>21</sup> Ackers and Payne (1998: 529 in Huzzard 2005: 20).

<sup>22</sup> Bronfenbrenner and Juravich (1998).

<sup>23</sup> The latter investigates into the strategies and tactics employed by trade unions in response to external or environmental challenges, not least the challenges of globalization. For example, the European debate on IR highlights the overhaul of unions' policies and structures resulting in the attempts to reach out new groups, concentrate more on workplace work, or re-articulating union work between different levels.

<sup>24</sup> Cornfield and Fletcher (1998, 2001 in Cornfield and McCammon 2003: 3, Cornfield and McCammon 2003: 16).

Trade unions across the world have already accumulated a scope of different revitalization strategies<sup>25</sup>. In the Ukrainian context the application of different strategies stressed for Europe or America is problematic in the view of the legacies of union subordination, politicized IR, and the lack of union knowledge of classical union work. In particular, a certain degree of scrutiny is needed in the view of “alienated collectivism”<sup>26</sup> practiced among workers throughout many decades, and resulting in the low degree of workers’ participation in unions, and ineffective collective and self-organization.

Valid for any settings is the emphasis of the revitalization on organizing at the background of almost universal membership decline. In particular, Bronfenbrenner and Juravich<sup>27</sup> stress that trade union organizing successes depend on the development and implementation of an aggressive rank-and-file strategy pursuing also “building a union and acting like a union from the very beginning of campaign”. Hence, the combination of different members-oriented tactics, the utilization of personal contacts, leadership development, and a combination of aggressive and creative internal and external pressure tactics are necessary to make the organizing processes fruitful. It is only then that such strategy creates culture, climate, and capacity for organizing in the future<sup>28</sup>. Undeniably, such organizing is vital for the revitalization of Ukrainian unions. But can the revitalization of the Ukrainian trade unions be embraced by solely organizing?

### **The way towards the revitalization of the Ukrainian trade unions**

As the system collapse across the CIS countries was unexpected and unprecedented, trade unions cannot change overnight. Neither could they commit to their new functions. Indeed, they require time and knowledge in order to get clear with their “new” roles and functions. It is argued that such union responsiveness and learning (including the resulting re-definition of union relationships as one of necessary responses) constitutes union revitalization in the particular Ukrainian case.

In comparison to the established market economies the revitalization of Ukrainian trade unions is more embracing in terms of dimensions on which changes are needed. The scope of external changes requires changes in union identities, structure and governance, the re-definition of resources, and their internal relationships with the existing affiliates and

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<sup>25</sup> For example, Frege (2006) (in reference to the developed capitalist economies) consider organizing, labour-management partnership, political action, reform of union structures, coalition-building, and international solidarity.

<sup>26</sup> Ashwin (1999).

<sup>27</sup> Bronfenbrenner and Juravich (1998: 34).

<sup>28</sup> In addition, it creates an opportunity for the union to become strong and viable as workers enter early in the organizing process, gain leadership skills and understanding of the union power. “More than simply organizing new members, rank-and-file intensive campaigns will allow for the rebuilding of the labour movement – not simply individual labour organizations but a mass movement poised to regain its rightful place in society” (Bronfenbrenner and Juravich 1998: 36).

members. For, they should be responsive to broad-scale industry-specific developments and those on the labour market. By the same token, the process of privatization and the emergence of private firms (hardly familiar to unions before) require the different set of union external and internal intra-level relationships. The need to establish union independence raises the issues of simultaneously strengthening its existing membership base and necessitates its extension to potential constituencies. The re-definition of the sets of relationships in a manner that would make unions more self-sustainable and independent, and help them out of subordination is undoubtedly in the centre of every revitalization effort, and is particularly urgent in the case of Ukrainian trade unions.

Hence, the revitalization of Ukrainian union starts from the centrality (and so, re-definition) of union-member relationships of collectivity. Indeed, such factor as passivity of workers who remain consumerist in their attitudes to trade unions point to the urgent need to focus on rather consolidation than any other strategy. Consolidation gains a growing significance at the background of workers' scepticism in Ukraine post-1991. Whereas over 57% of Ukrainians sees enterprise-based trade unions as passive and leaders as discharging the trade union functions, only 7,1% of workers trust them<sup>29</sup>. Such members-oriented work will hardly be possible if disconnected from education of both leaders and members<sup>30</sup>.

The demise of "universal membership" raises the further need for unions to learn how effectively approach and organize workers, while sensitizing them on their rights, and not second-ranked interests (e.g. recreation or material assistance). It necessitates the development of new organizing approaches applicable, for example, to private companies, or to organizing workers in micro and small enterprises, informal economy, and migrant workers. Hence, it is suggested to address union revitalization in Ukraine in the current line of argumentation simultaneously as a two-track strategy, combining consolidation and expansion.

### ***Consolidation***

Consolidation concerns the need to strengthen the structures and relationships with affiliates and members that are already put in place. In the view of union-inherent weaknesses identified above, this track of the revitalization strategy refers to the re-definition of inter- (between different levels of union activity) and intra-union (between

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<sup>29</sup> Bychenko (2001, Razumkov Centre 2001).

<sup>30</sup> Richard Croucher points to the particular importance of trade union education for the CIS countries as a dynamic tool for change, for union re-fashioning and learning, if education addresses key features of unions and members and unions themselves (Croucher 2004).

leaders and members) relationships. Consolidation also includes the broadening of leaders' horizons in order to recognize the need for unions also among different (atypical and non-standard) forms of employment. This will not possible without using education as a strategic re-fashioning tool.

### ***Expansion***

The second track of the revitalization strategy also originates from the centrality of workers-union relationships. The necessity of the union function framed as "organizing" arises out of their classical status as member organizations<sup>31</sup>. In case of the Ukrainian construction workers' unions there is a need for a strategic approach to organizing, planning it carefully and with scrutiny with the considerations of the structural changes in the given sector. Here unions' choices should address the allocation of resources (commitment), targeting of activities (direction), and the methods in use (method)<sup>32</sup>.

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<sup>31</sup> Heery and Adler (2006).

<sup>32</sup> The same source.

## **THE STATE OF EMPLOYMENT IN THE CONSTRUCTION SECTOR**

In line with the conceptual approach the next section suggests an overview of the employment effects of the structural changes in the Ukrainian construction. It is argued that union revitalization strategies should be responsive to such developments. The initiatives of the construction workers' unions in Ukraine have so far, been largely ad hoc and uncoordinated. Hence, for its revitalization the trade union movement will have to go beyond its traditional structures and explore imaginative ways of engagement with different actors, including existing and potential members and new groups of workers. Such change in the structure of unionism is argued to be facilitated in the context of Euro-2012 because of the involvement of the companies through which pressure for the compliance with labour standards could be channelled to secure employment relationships.

### **Construction and employment security**

Under the impact of system change the world of work in Ukraine faced deficits in all four arrears embraced by the concept of decent work promoted by the International Labour Organization (ILO)<sup>33</sup>. These deficits are unevenly distributed across different segments of the labour market. Whereas those skilled workers that are employed without the limit of time enjoy more job and income security, semi- or unskilled workers are more dispensable, their employment casual and so, they face higher insecurity levels. This fact precipitates more and a different kind of demands on trade unions if decent work standards are to be implemented in the run up to Euro-2012.

The differentiation of employment relationships with higher or lower level of security originates from the re-definition of the shares of public and private sectors of the Ukrainian economy and intra-sectoral developments in construction (e.g. the re-definition of the supply or subcontracting chains and the growth of the informal economy). As a result of the marketization, and in order to allow enterprises more flexibility in their adaptation to the market environment new forms of employment were introduced. Consequently, atypical or non-regular forms of employment emerged, for which the regulation of work became looser. As the Ukrainian legislation has been still oriented towards contract-

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<sup>33</sup> The ILO concept of decent work is based on the four pillars: employment opportunities, social protection, social dialogue, and rights of work. See, for example, Chernyshev (2006).

based, full-time and without limit of time, it was hardly extended to cover the other forms of employment, hence, placing them outside the regulatory framework.

In the course of the structural changes in the construction (and in the rest of economy) enterprises differentiate along several dimensions including their type and background, size, and the kind of reforms at restructuring. These background-related characteristics have also born some implications for the type of employment relationships (part-time or temporary, formal or informal), as well as the likeliness of collective representation and management-unions relationships.

Trade unions were generally claimed to be weakened through the above as not only employment deteriorated but also union representation rates dropped. Notably, the re-unionization of re-organized enterprises makes unions' attempts at institutional survival evident, but not always shows signs of consistent revitalization. At those enterprises that were re-established on the basis of the former state enterprises construction unions in many cases re-established their organizations. Such "quasi-expansion" of the union also requires deeper changes on different dimension of union work that would shape their responses to the structural changes. This is the topic of the next section.

### ***Structural changes in the Ukrainian construction***

In the course of the privatization big construction companies that existed pre-1991 seemed to shrank considerably or disappear<sup>34</sup>. Only around four or five of such companies remained in Ukraine<sup>35</sup>. A share of the assets united pre-1991 by so called "trests" was consolidated by the industrial-financial groups and holding companies, other enterprises were privatized by managers and workers buy-outs. As Roman Cherkas points out, such development have led to the dualization of the branch - big companies co-exist with the numerous small ones as the economic development of Ukraine has not been conducive to the development of the medium-sized firms<sup>36</sup>. Big enterprises and holdings succeeded to accumulate skilled workers, and have traditionally provided more secure employment and social benefits. Interestingly, they managed to grow on capacities to be able to conduct almost closed-cycle of construction works, and hence, they need not so many suppliers to finish the works. Frequently centralized management style of their

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<sup>34</sup> Cazes and Nesporova (2003).

<sup>35</sup> Interview with Vasyl Andreyev, the Vice-President of the CBMWUU, Kyiv, 26 August 2009.

<sup>36</sup> Interview with Roman Cherkas, the Vice-Director for the construction of the stadium of the Euro-2012 Department of the L'viv City Council.

supply chains open up some possibilities to channel union pressure down the supply chain, pre-conditioned by the strength of the union at the core enterprises. The role of such big enterprises in the Ukrainian construction is explicated by Euro-2012, for which a huge holding company Kyivmis'kbud (around 40,000 employees) and design-construction company Azovintex (3,000 employees) were appointed as General Contractors of the stadiums in Kyiv and L'viv respectively.

The former companies, in particular, are more likely to still practice paternalistic relationships with their workers. This can be called the core segment (in terms of employment protection) – those enterprises that still offer social and welfare benefits, obey to the law, and provide more decent workplaces, as well as are organized into trade unions. It is specific for the economies in transition that even though some of these enterprises are private, they frequently do not conform to what is known as private in established capitalist economies. Paternalistic management styles are sustained here and are conducive to union activities and revitalization given appropriate unions' choices.

In the latter – big construction enterprises emerging from the unification of smaller firms - workers benefit less from the legacies of organizational participation in unions. More commitment by such employers towards extracting and maximizing profits also undermines the level of guarantees provided to workers. It is here that the shift away from paternalism is more likely. Here the opportunity structure for unions narrows up, and demands more aggressive approaches on the part of unions to organize and bargain for workers. In particular, since recently, it became fashionable in big-size business to promote Social Corporate Responsibility. Its understanding by business owners is rather general and broad-scale (assistance to school, hospitals, the promotion of healthy style of life) and has less to do with employers' commitment to have relationships with unions.

The gap originating from the de-organization of the former construction sector was filled by mushrooming small firms concentrating on construction, renovation, and maintenance of housing and business premises (Cazes and Nesporova 2003). As the politics of Ukraine are yet anything else than conducive to the development of small enterprises,



many operate in informal economy<sup>37</sup>. In contrast to the core, their employment is characterized by work flexibilization and informalization.

As the trade unions have been traditionally presented in the public and regulated sector (core), they succeeded to a certain degree to re-establish their structures throughout the economic reorganization processes. But their activities were slow at spurring over to the growing newly-established private sector and literally linger the smaller and the “newer” the company is. Hence, workers involved in this part of the construction sector enjoy significantly less protection. Even if covered by the labour law, their unorganized workers have yet fewer possibilities to protect their rights in the view of the legal settings in Ukraine being characterized by the “compliance by demand” and the fact, that the legal benefits are pre-conditioned by union membership. These workers are hardly covered by the social security nets. Nor are small enterprises workers of interest for trade unions as the cost to recruit them is higher than gains. Basically, this is a segment of workers facing the highest levels of decent work deficits, and hence, identifiable as periphery.

Considering these characteristics and the originating degree of workers’ security allows to distinguish between the three employment segments in the Ukrainian construction: core, non-core, and periphery<sup>38</sup>. If one considers the strong degree of both legal and collective protection (by trade unions) of workers involved in the first segment as the core, the less regulated and less collectively protected segment can be identified as the non-core, and consequently, small enterprises, and also those in the informal economy that offer non-descent workplaces, and whose IR are unilaterally defined by employer belong to the periphery. It should be noted here, that such cut line is quite symbolic as also big enterprises offer informal employment (e.g. “wages in envelopes), and paternalistic employers can also be found in the private enterprises. However, undeniably, the acceptance of the diverse forms of employment is linked to the enterprise backgrounds.

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<sup>37</sup> Informal economy size amounted according to different estimates, to 60-70% of the Ukrainian economy (e.g. Williams (2007), Woolfson (2005), 9% of those working in the informal economy are in construction according to the official data of the State Statistics Committee (State Statistics Committee of Ukraine (2008a). However, the reliability of the official statistic indicators was questioned elsewhere, so that the share of informal economy construction workers is presumably higher.

<sup>38</sup> The idea of distinguishing between the core, non-core, and periphery employment zones is adopted to the Ukrainian context from Von Holdt und Webster (2005)

### ***The Ukrainian-specific forms of work informalization***

Informalization trends identified by the analysis of the structural changes on the transition labour markets in the region also extend to Ukraine<sup>39</sup>. It witnessed the upsurge in such forms of employment as civil-law contracts or multiple work-holding, temporary and part-time employment, agency work. Within the Ukrainian legal settings and unlike the traditional forms of employment labour law and arbitrary hardly extends to such more flexible forms of employment. For example, in case of civil-law contractual employment<sup>40</sup> one can speak about wage labour with disguised employment relationship<sup>41</sup>. In order to save on labour costs and its termination, in particular, construction sector employers push their workers to become formerly self-employed and offer them contracts for specific task or work instead of labour contracts. Indeed, as such employer-worker relationship is subjected to civil legislation it is outside of social safety nets. These workers are pushed out of the regulatory framework, and are excluded from the protection through unions.

Summarizing the argument so far, these developments allow to locate the identified employment relationships by their levels of workers' security and the patterns of collective organization into three employment segments: core, non-core, and periphery. As the trade unions have been traditionally presented among full-time staff workers frequently on indefinite labour contracts (core), their presence among workers with less regulated forms of employment (e.g. in cases of multiple job-holding and part-time work) is lower (non-core), and literally missing as regards very little or non-regulated and informal employment forms (periphery). Next, some empirical evidence is reviewed in order to support the argument advanced so far.

### **The distribution of workers across different types of employment relationships**

As of 2009, in construction, 90252 enterprises were registered with the State Statistics Committee of Ukraine which amounts to 7,3% of total count of registered enterprises<sup>42</sup>. As

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<sup>39</sup> Gimpelson and Lippoldt (2001, Clarke 2000, Cazes and Nesporova 2003, Slomp, van Hoof and Moerel 1996).

<sup>40</sup> Civil contract does not set an employment relationship, and in stead, regulates the work result, but not terms of employment or working conditions. In case of a civil contract, labour process is not regulated; the contractor is organizing the work himself and determines working hours as the civil contract has only a deadline set for the assignment. On the contrary, in case of the employment contract a worker has long term employment relations with the employer, and shall perform any work within his profession, skills and positions and adhere to bylaws.

<sup>41</sup> Cazes and Nesporova (2003).

<sup>42</sup> "Кількість суб'єктів ЄДРПОУ за галузями економіки та організаційно правовими формами господарювання станом на 1 липня 2009 року" (The number of registered units with the EDRPOU index by economic branches and organizational forms as of 1 July 2009), State Statistics Committee of Ukraine, web-releases, available at <http://www.ukrstat.gov.ua/>, last visited on 20 September 2009.

the same official data demonstrated, the share of public sector shrunk to slightly over 1,200 units (both public and communal) accompanied by the slight re-consolidation of the sector (around 144 holding companies, corporations and concerns) and the prevalence of “quasi-private” organizational forms (like open and closed joint stock companies) over the private enterprises (see Table 1 below). Notably, the data also demonstrate the mushrooming of micro-enterprises (over 2800 without the legal entity)<sup>43</sup>. All in all, it shows the advance of the structural reforms in the construction sector, and the diversification of patterns of enterprise activities but tells little about the resulting patterns of work organization.

Among 1,030,200 of all those working in the construction (with and without written or oral agreement as of 2007), 741 000 workers (5,3% of total employment) are hired as based on the written labour agreement, including both, indefinite and temporary work contracts<sup>44</sup>. However, only 500,000 (excluding small enterprises as of 2007) of the total employment in construction are workers on pay-roll, which is only less than a half enjoy the higher degree of social and employment benefits, whereas the other “bigger” half does not. This allows to assume that the rest – 241,000 of those hired are outside of the pay-roll employment (workers employed as based on civil-law contracts, or those holding multiple works), basically workers in less secure jobs.

The data of the State Statistics Committee is quite controversial, as sometimes employees of small enterprises are accounted, and sometimes not. In terms of the employment at small enterprises the Committee points to 273,4 thousands workers<sup>45</sup> (both on and without pay-roll), so that it is not clear where exactly it fits into the total employment indicators in construction. Presumably, they are partly re-accounted within 419 553 workers in the informal construction sector (9% of the total informal economy employment as of 2007)<sup>46</sup>.

The chart bellow attempts to locate the number of workers along the core, non-core, and periphery employment (as based on data for 2007). As it demonstrates, in the core segment workers on pay-roll are located (500,000). In the non-core one finds the rest of

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<sup>43</sup> The same source.

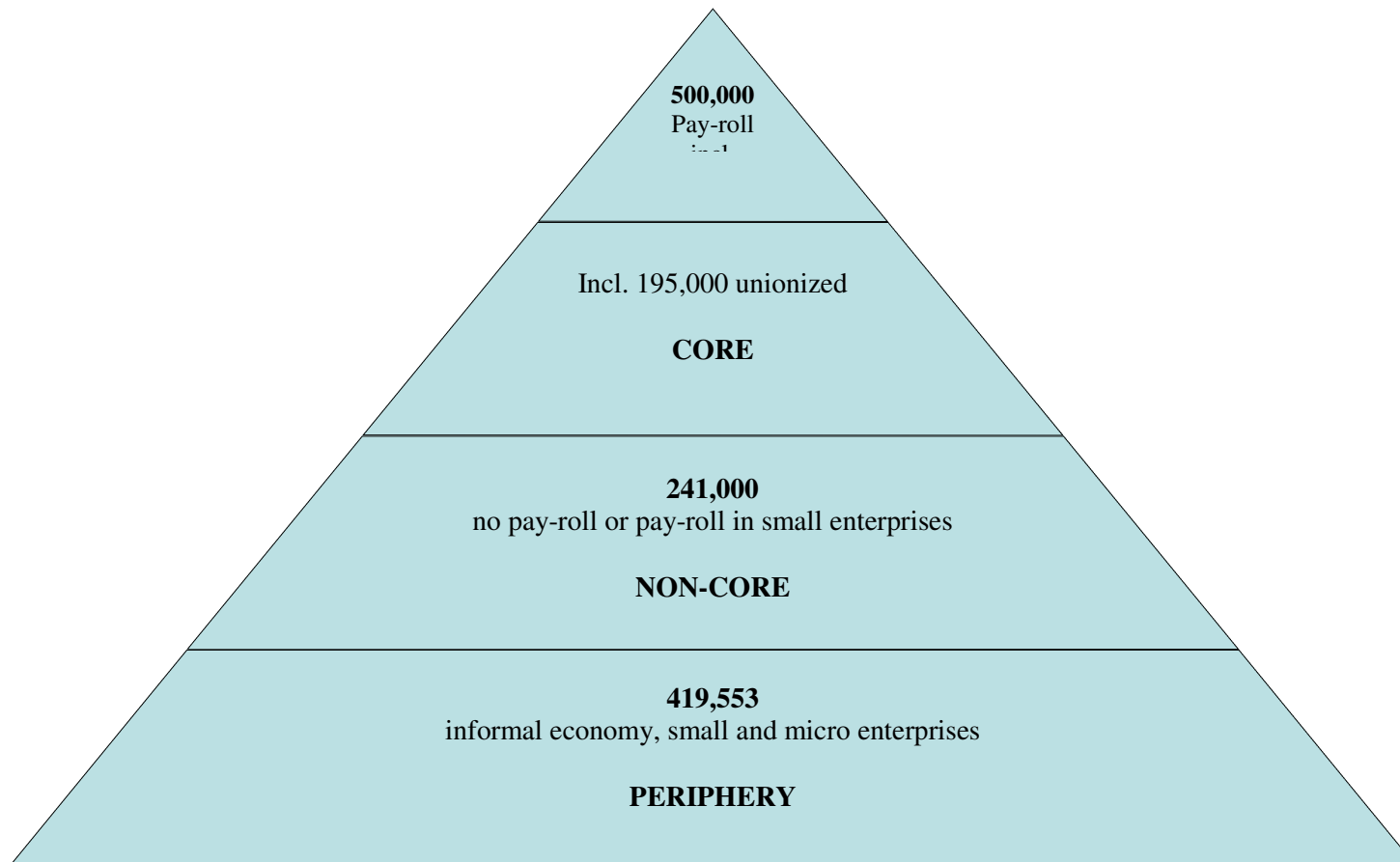
<sup>44</sup> State Statistics Committee of Ukraine (2008a), State Statistics Committee of Ukraine (2008b).

<sup>45</sup> Data for 2008, see “Основні показники діяльності малих підприємств за видами економічної діяльності у 2008 році” (Major indicators of small enterprises by sector in 2008), State Statistics Committee of Ukraine, available at [www.ukrstat.gov.ua](http://www.ukrstat.gov.ua), last visited on 29 September 2009.

<sup>46</sup> State Statistics Committee of Ukraine (2008) *Економічна активність населення України 2007* (Economic activity of the population of Ukraine 2007), Kyiv.

hired employees (so, outside of pay-roll) amounting to 241,000 with low degree of collective organization. Finally, 419,553 unorganized workers in the informal construction sector are located at the periphery. Notably, the workers in small and micro enterprises are scattered across the two last segments (non-core if pay-roll and periphery if informal employment relationship). Here one could also find self-employed.

**Chart 1. THE COMPOSITION OF THE EMPLOYMENT IN THE CONSTRUCTION SECTOR<sup>47</sup>**



<sup>47</sup> Self-generated, according to the data of the State Statistics Committee of Ukraine, different tables, available at [www.ukrstat.gov.ua](http://www.ukrstat.gov.ua), last visited on 29 September 2009.

## Wages in construction

The average data on the wages in construction (as cited below) should be treated cautiously in terms of the three issues. On the one hand, all construction workers' wages exceed the legally set minimum wage (taking normally as an indicator for the analysis of the levels of pay) but the minimum wage is not sufficient to ensure subsistence of workers. The situation aggregates if workers have household dependents. Secondly, there are huge regional differences in wages paid and debts accumulated<sup>48</sup>. Thirdly, 43% of active construction enterprises had wages arrears as of January 2008 (30,2 mil. UAH) (as the table below shows). As this official data is not reliable, the indicators negatively change under the impact of the financial crisis.

In 2007, average wages in construction amounted to 1,486 UAH among workers on pay-roll (9,44 an hour or under 1 Euro). Notably, workers that are paid from the state or municipal budgets (and so, those involved into (re)construction of stadiums for Euro-2012) received lower wages (1134 UAH or 76,3% of the wages of pay-roll workers), and those employed in the private enterprises – the lowest (of 964 UAH as of 2007, see the table below). In particular, the wage indicators for the private sector seem to be unrealistic, and allows to assume the part of wages being paid in envelopes. Whereas the wage structure can be influenced by the trade unions through the bargaining mechanisms at all levels (national, regional, and enterprise-based), the same table below also demonstrates that a lot of such possibilities are under-utilized, hence creating the opportunities to intensify unions' activities in this area. Whereas for 1,3% workers collective agreements set lower tariffs if compared to the legally set minimum, the bulk of agreements just re-enforce either the nationally or sectorally set tariffs (76,2% minimum wage, and 90,8% the sectoral coefficient). Only in a small amounts of cases union capitalize on the mechanism and their wage-setting functions. In particular, 22,5 % collective agreements set a higher tariff coefficients (and only 6,7% of collective agreements exceed the sectoral coefficient)<sup>49</sup>. Additionally, only 386,000 workers or 77,3% of the total of pay-roll workers were covered by collective agreements. As this data re-confirms (as summarized in the table 1 below), collective protection and agreements traditionally extend to those workers that are in the core, for, their coverage will be much lower in the non-core and it will be void in the periphery.

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<sup>48</sup> In 2007, construction workers in Kyiv received 2 300 UAH (and some of the respondents earned around 8,000 in the pre-crisis time), those employed in Ternopil were paid 943 UAH. For other cities participating in Euro 2012 data looks as follows for 2007: Kharkiv - 1251, L'viv - 1183; and Donetsk – 1535 UAH, according to State Statistics Committee of Ukraine (2008b), translated by L.V.

<sup>49</sup> State Statistics Committee of Ukraine (2008a), translated by L.V.

**Table 1. EMPLOYMENT, WAGES, AND WAGES ARREARS IN CONSTRUCTION BY COMPANIES' TYPES, 2007<sup>50</sup>:**

	Pay-roll, average, Tsd.Pp.	Incl. according the company types, %						
		SOE	Communal	OJSC	LLC	Subsidiaries (divisions)	Private	Other
Employment	499,9	1,8	1,7	14,0	33,1	19,6	6,5	23,3
Aver. Wages, UAH	1486	1866	1370	1744	1349	1652	964	1510
Wages debt, mil.	30,2	7,5%	1,8%	29,6%	8,4%	29,6%	2,3%	20,8%
<b>COLLECTIVE BARGAINING AND AGREEMENTS (irrespective of the union membership)</b>								
Coverage, as the share of the workers on pay-roll		Enforcement, % <sup>51</sup>		CA Tariff as compared to the legal min. wage, %		CA Tariff as compared to the SA tariff, %		
Collective Agreements	386,000	77,3%	96-97	Below	1,3%	Below		2,5
				Conform	76,2%	Conform		90,8
				Higher	2,5%	Higher		6,7
Sectoral agreement	344,000	68,8%						

<sup>50</sup>Self-generated according to State Statistics Committee of Ukraine (2008a, b), translated by L.V.

<sup>51</sup> As based on employment, wages, and health and safety indicators.

## **WORKERS' RIGHTS AND THE STATE: PROTECTION AND IMPLEMENTATION IN THE CONTEXT OF EURO-2012**

This section basically deals with the opportunity structure for the implementation of workers' rights and guarantees allocated to them by the Ukrainian government. In spite of the Ukrainian "pro-worker" legislation it has, nevertheless, not been able to offer workers protection in real terms, as it is pre-conditioned on the contract-based employment and is characterized by "compliance on demand". In line with this, and the argument so far it is suggested, that the exercise of workers' rights in the Ukrainian construction is contingent on the union membership. Thus, it is re-emphasizing the central role trade unions could play for the effective implementation of workers' rights. As the law opens up certain opportunities for union revitalization unions could benefit more from committing their resources and activities to the education and increase in workers' awareness of their rights including outside union frontiers. It would allow to decrease the degree of the compliance on demand, is more efficient if compared to the individual representation of union members in courts, and in broader terms, it facilitates the increase in workers' interest in unions.

### **Labour law and opportunity structure**

Ukrainian labour law originates from the socialist concept of the regulation of workers' and unions' rights. The revision process of the labour legislation since 2003 brought about a certain degree of the de-regulation of terms and conditions of employment<sup>52</sup>. However, at the point of writing this report the Labour Code of 1971 still remained in force. Ukrainian labour law provides both workers and their unions with a series of instruments to regulate their terms of employment, pay, working conditions and health and safety (hereafter H&S)<sup>53</sup>. Employers are obliged to pay around 30% of wages funds in social insurance dues for each employee involved in contract-based employment<sup>54</sup>. Employers must enter into collective bargaining and agreements with the union<sup>55</sup>, and are fined for their intervention with the union activities and their refusal or reluctance to bargain (though fines are insignificant). Three persons are enough to establish the union, which is to be legalized, for, its legalization cannot be rejected in law. Yet, employers, to some extent in continuity with the past, provide resources for unions' activities. Beyond office and meetings premises, they have to transfer

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<sup>52</sup> According to the expertise of Ukrainian trade unions, National Institute of Strategic Studies ([www.niss.gov.ua](http://www.niss.gov.ua)), and other analytical agencies, e.g. Komarova (2008) *Komu trud a komu mai abo Trudoviy Kodeks z nelyudskim oblych'am*, Centre of Civil Society Problems Research, available at <http://politika.org.ua>.

<sup>53</sup> For example, the Law of Ukraine on Work Protection Nr. 2694-12 obliges all employers to appoint H&S officers or inspections, and allocate 0,5% of the annual enterprise turnover to organizing H&S at enterprises.

<sup>54</sup> Art. 253 of the Labour Code of Ukraine

<sup>55</sup> Law of Ukraine on Collective Agreements and Conventions Nr. 3356-12



0,3% of the wages funds for the cultural, physical and recreation activities of the union<sup>56</sup>. Any employers' interference in union affairs is legally prohibited.

Labour legislation has been non-cohesive and contradictory in some of its aspects. The most important contradiction arises out of the incompatibility of laws as regard substance minimum and minimum wages. Both are set by the Ukrainian authorities. The Law on State Budget stipulated that the minimum wages cannot be lower than the legally set subsistence minimum. However, also legally set minimum wages have been consistently kept at the lower levels. Law on Wages 108/95-VR pegs wages to the minimum wage (which are adopted by the Parliament). The current minimum wage has never even reflected the subsistence level in Ukraine, which is already a violation of the Law. Currently, since January 2009 subsistence level in Ukraine is set at 669 UAH, whereas the law sets the minimum wages at 609 UAH (66 and 60 Euro respectively). Additionally, the indexation of both subsistence minimum and minimum wages has not been conducted in relation to the current inflation rates. According to the Federation of Trade Unions of Ukraine (FPU) currently there is still subsistence minimum of 2008 at 669 UAH, whereas in the view of the current inflation rates it has reached already 965 UAH<sup>57</sup>. However, minimum wage that was set for 2010 in the State Budget of Ukraine amounts to 778 UAH (initially 681 UAH were suggested by the government) and will enter into force only since December 2009. Consequently, according to the calculation of the FPU minimum wages in 2010 will be 100 UAH lower than the poverty line<sup>58</sup>.

On the other hand, the real exercise of such workers' protection is restrained by "compliance on demand". The sanctions for the violations of law hardly give any incentives to stop violations. In the view of the non-functioning law enforcement mechanisms in Ukraine, unless "demanded" through courts, workers' rights can be easily second-ranked. The exercise of workers' rights is contingent on: 1) formal contract-based employment (thus, leaving informal economy, self-employed or civil-law contract workers outside the scope of the law); and 2) workers' awareness of the scope of their rights and mechanisms of their implementation, as well as their willingness to ensure the implementation, and 3) workers' participation in unions (thus leaving non-unionized employees also outside). Workers' awareness of their rights and desire to fight for these remain very low. As noted by the Chief State Labour Inspector Ihor

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<sup>56</sup> Art. 250 of the Labour Code of Ukraine, Art. 44 of the Law of Ukraine on Trade unions, Their Rights and Guarantees of Activity.

<sup>57</sup> „Наша позиція по держбюджету 2010 не змінилася“, news release of the Federation of Trade Unions of Ukraine (FPU), dated of 22 September 2009, available under [http://www.fpsu.org.ua/index.php?option=com\\_content&view=article&id=585%3a-2010-&catid=16%3a2009-07-14-18-15-09&lang=uk](http://www.fpsu.org.ua/index.php?option=com_content&view=article&id=585%3a-2010-&catid=16%3a2009-07-14-18-15-09&lang=uk), last access on 23 September 2009.

<sup>58</sup> The same source.

Sumovs'ky, workers frequently appeal to the Labour Inspectorate post-factum after they face some problems but they are reluctant to report on such violations while they are working<sup>59</sup>.

As is clear from this brief review the regulatory instruments on the activities of trade unions allocate quite a broad array of rights and competencies to unions and workers' representatives. With it, it raises the need to consolidate union activities in order to pressure for the compliance. Together with the prospect of hosting Euro-2012 in Ukraine both factors provide a significant opportunity structure for unions to revitalize on their activities, but it also exposes unions to huge challenges posed by the system deficits. These are discussed afterwards, and are followed by the brief overview of how the Ukrainian population positions unions in terms of its prospects for the protection of workers.

### **Law enforcement and control mechanism**

Throughout the period of independence the Ukrainian government has failed at advancing the labour law enforcement and establishing a transparent judiciary system. Together with a high degree of informalization of the labour market (as elaborated in the previous section) the lack of functional enforcement mechanisms further undermines the degree of workers' legal protection in Ukraine. Hence, as this section will show, in the conditions of the weak civil society and the underdeveloped infrastructure of non-governmental organizations (NGOs) the realization of workers' rights is pre-conditioned by workers' and unions' initiatives.

The state control over the implementation of work-related rights is scattered through different committees, departments, and services. Technical supervision – health and safety – is conducted by the State Committee of Industrial Safety, Labour Protection and Mining Supervision (Derzhgirpromnaglyad). The implementation of workers' legal rights is assigned to the State Labour Inspectorate. Beyond that the supervision over the implementation of further prescriptions (e.g. hygienic and sanitary) is scattered through other state agencies. Regional authorities are according to the law also to conduct control on the law enforcement in their provinces, including wages and their payment on time.

Several problems arise out of the work of the supervisory bodies so far. On the one hand, there is no coherent and integrated system of labour inspectorates in Ukraine. On the other hand, labour inspections are under-resources, so that their capacity to audit the

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<sup>59</sup> Interview with Ihor Sumovs'ky, State Chief Labour Inspector of Ukraine, Kyiv, 27 August 2009.

implementation of enterprises is almost at zero. Whereas labour inspections audit only a tiny proportion of enterprises, they detect violations in 90-95% of enterprises audited<sup>60</sup>. These detections bring about fines that are not high enough to insure employers further comply with the labour law.

### ***Labour Inspections<sup>61</sup>***

State Labour Inspectorate and the Chief State Labour Inspector monitor the implementation of workers' rights set by labour laws. Even though Ukraine also ratified respective conventions and norms, the capacities of the labour inspectorate have remained quite limited. In the central office there are only 22 persons (incl. cleaner), and 919 persons are employed across the country. So that it is not possible even to have one inspector per administrative unit. The scope of functions assigned to the inspectors is broad (including forced and child labour, informal work, work accidents or pension insurance). Therefore, labour audits are approached thematically – which is on the appeal of unions or workers. 3-4% of enterprises are covered by inspections.

In particular, in Kyiv, in order to check at least once an enterprise, the Inspectorate would need 30 years. In 95% of audits and enterprises the violations of labour rights of workers are identified. The punishment for those violations amounts to at least 850 UAH, which doubles in case of refusal to pay. However, the fines are much higher in other countries, and in particular, in Ukrainian case do provide incentives for compliance with the law. In particular, if one considers the most common violations – issues of relevance to labour contracts, payment of wages (including wages arrears), and working hours.

### ***Committee on Health and Safety at Work - Derzhgirpromnaglyad***

Health and safety issues at construction sites is an assignment of the State Committee on Health and Safety at Work<sup>62</sup>. In particular, in construction there are 70 inspectors in whose competency there are 28,5 thousand construction enterprises employing around 985 thousand workers. As a result of 9418 audits in 2006 inspectors identified 83100 cases of violations of health and safety-related laws and norms. In particular, many of violations are found at small construction firms, whose owners hardly pay attention to the issues of health and safety and educate their workers on them unless accident already happens. The rate of

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<sup>60</sup> Interview with Ihor Sumovs'ky, State Chief Labour Inspector of Ukraine, Kyiv, 27 August 2009.

<sup>61</sup> Unless specified other, this subsection is based on the interview with the State Chief Labour Inspector, Ihor Sumovs'ky, Kyiv, 27 August 2009.

<sup>62</sup> A full name is State Committee on Industrial Safety and Labour Protection and Mining Inspection, or Derzhgirpromnaglyad.

occupational accidents has remained at quite high rates. 152 workers died at construction sites in 2006<sup>63</sup>. The increase in the volumes of construction works (also pre-supposed by Euro-2012) did not result in the increase in the capacities and frequencies of audits done by the Committee. Interestingly, the cause of many accidents is frequently of organizational nature: the lack of the project documentation, the lack of construction permit for particularly hazard and dangerous works, or the non-provision of individual and collective protection means. In particular, 290 enterprises conducted highly dangerous works without having such permits in 2006<sup>64</sup>. However, like in case of labour inspectorate the system of punishment (fines, administrative responsibility) hardly give further incentives to decrease the rate of traumatism. In particular, fines amounted to 34-119 UAH<sup>65</sup>.

There are several deficits in the functioning of H&S supervision. The legal norm of what exactly this health and safety inspectorate is responsible for, is not clearly set in the Ukrainian legislation. As the Vice-Director of the Chief Department of Labour and Social Protection of the Kharkiv State Oblast Administration, Aelita Dobroshtan notes, due to the recent changes in respective laws, the supervision on labour protection is conducted by their department voluntarily, until a respective special department is established under the State Regional Administration of Kharkiv. Since January 2009 Regional (Oblast) Councils were authorized to establish and integrate health and safety departments into its structure. In its turn, health and safety inspectorate was authorized to only collect the data on industrial health and safety and accidents. Further, the inconsistency of the state supervision of the implementation of health and safety is demonstrated by resources allocation. Sergiy Storchak, the Head of the Committee stresses, that money (from the state budget and from the insurance fund from occupational diseases and disabilities) is spent on payments for disabilities and the liquidation of the consequences of accidents. Instead it would be more beneficial to channel such expenses into the prevention measures<sup>66</sup>. Lastly, “chronical inconsistency”<sup>67</sup>, in the course of which the Committee has been restructured every time the new government would come in office. Sometimes it was liquidated, and the re-instated from scratch. Sometimes it was transferred to one or another ministry<sup>68</sup>. In contrast to the case of

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<sup>63</sup> All data referred to above originate from “The state of the supervision and occupational accidents in January – December 2006 in construction”, State Committee on Health and Safety at Work, analytical materials, dated of 05 February 2006, available at [http://www.dnop.kiev.ua/index.php?option=com\\_content&task=view&id=1793&Itemid=62](http://www.dnop.kiev.ua/index.php?option=com_content&task=view&id=1793&Itemid=62), last access on 23 September 2009.

<sup>64</sup> The same source.

<sup>65</sup> Interview with Aelita Dobroshtan, the Vice-Director of the Chief Department of Labour and Social Protection of the Kharkiv State Oblast Administration, interview with a representative of the territory department of Derzhgirpromnaglyad of the Kharkiv State Oblast Administration, Kharkiv, 21 August 2009.

<sup>66</sup> Сергей Сторчак: «Нашу роботу на перший погляд не видно, але за нею — спокій країни», *Mirror Weakly*, № 35 (763) 19 — 25 вересня 2009, available at <http://www.dt.ua/pda/2000/2650/67061/>, last access on 21 September 2009.

<sup>67</sup> Сергей Сторчак: «Главное для нас — помочь работодателю избежать производственных аварий» № 16 (695) 26 апреля — 16 мая 2008, available at <http://www.zn.ua/2000/3993/62812/>, last access on 19 September 2009.

<sup>68</sup> The same source.

labour inspections H&S inspectorate hardly cooperates with the trade unions during audits and before accidents take place. But in case of accidents the investigations of cases of occupational traumatism are conducted jointly with trade unions (legally set norm).

### **Collective representation and protection of workers in Ukraine**

Post-1991 the unionization rate in Ukraine has consistently decreased, but has remained quite high in comparative terms (over 50%). The degree of protection through unions remained low. Only slightly over 10% of the respondents of the Razumkov Centre Survey gave unions high marks for their successes in workers' protection, and over a half, completely unsatisfactory<sup>69</sup>. The fragmentation of unions and inter-union rivalries additionally undermined the trust in trade unions<sup>70</sup>. The review of the literature on the state of trade unions (as outlined in the conceptual approach of the study) already identified some areas of union weaknesses. Notably, unions have to struggle with workers' non-awareness of what trade unions are for and how the mechanisms of collective representation and protection can be realized. On the one hand, legacies of the socialist system brought about the need for unions to reconstitute their legitimacy and institute their role as civil society organizations. On the other hand, workers of younger generations are hardly familiar with trade unions and the way they work. As one of young respondents was cited:

*Actually I don't know what trade union is. I have heard earlier that we had some trade unions in the Soviet Union. They used to offer some benefits like cheap and discounted vacations but I cannot associate the union with anything else. I think that they still exist but I cannot specify further<sup>71</sup>.*

In particular, youth associates labour unions with social and welfare benefits, but hardly with wages and working conditions. At the same time young workers constitute almost one third of those employed in construction<sup>72</sup>. In this light the unions' activities targeting young employees are decisive for the prospects of union revitalization. The majority of employees (over 76%) have retained their union membership in spite of their dissatisfaction with unions' work, and only slightly over 18% of unionized workers believe in unions as defenders of their rights<sup>73</sup>. It is here, where the unions are advised to concentrate on the consolidation activities targeting their existing members in order to revitalize.

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<sup>69</sup> Razumkov Centre (2001).

<sup>70</sup> In 2001 over 89% of the unionized workforce were affiliated with the formerly official unions (FPU), 3,1% with the independent trade unions, and over 7% - in autonomous unions.

<sup>71</sup> Interview with Anna, an employee at the hairdressing saloon in Donetsk, Donetsk, 28.01.2008, conducted for Webster (2008).

<sup>72</sup> State Statistics Committee of Ukraine (2008a, b), translated by L.V.

<sup>73</sup> Razumkov Centre (2001).

## **CBMIWUU's RESPONCES TO EURO-2012**

The roots of the establishment of the Construction and Building Materials Industry Workers' Union of Ukraine (CBMIWUU) go back to 1917. It is the year in which the first meeting of the construction workers' union of then-Russian Empire took place. In 1957 the union coverage was extended also to building materials workers through the merger of two trade unions into a consolidated Republican Trade Union of Construction and Building Material Workers. In 1991 the union declares its independence and reforms and from then on it has embarked on the process of union restructuring. It is this phase of union-related changes that can be embraced by the term "revitalization" of the trade union movement. After the drop of the membership caused by the transformation dynamics, the union united 195 000 building workers in construction, cement, metal, building materials and glass producing, building machinery companies, architects, vocational schools students and teachers in Ukraine (around 31% of all officially employed in the construction industry)<sup>74</sup>, or slightly over 20% if workers also in informal employment are accounted for.

### **Union revitalization activities**

Once abolishing the structure of democratic centralism and re-organizing the union on the confederational principles, the CBMIWUU started their work with youth and engaged strongly with the development of youth infrastructure within the union, launched organizing activities, and experimented with new organizing models. The revitalization process was further facilitated through the educational exchange with and the assistance of the Building Workers International (BWI), as well as with the Swedish building workers' union Byggnads. In the context of the Euro-2012, in particular, the union engaged with innovative methods of union work such as campaigning.

### ***CBMIWUU's structural reform and the problem of cohesion***

The first stage of the union revitalization embraced the decentralization of both resources and activities of different level organizations. Trade union regional committees work more or less autonomously, like also local organizations (level of enterprises) are. First of all, such organizational reforms and the reorganization of the trade union on the confederational principles aimed at the abundance of the organizational principles of "democratic centralism" known from the Soviet times. The increase in the degree of autonomy of local organizations makes sense in terms of the centrality of enterprises as the unit of activity and organizational

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<sup>74</sup> Interview with Vasyl Andreyev, the Vice-President of the CBMIWUU, Kyiv, 26 August 2009.

changes in the economy also post-1991. However, along this organizational reform the available coordinating mechanisms turned out to be weak, for, disturbing the cohesive work structure within the CBMIWUU. This weakened the top level of organizational activity (the Central Committee) in terms of feedback mechanisms and enforcement of the CBMIWUU's initiatives downwards. Additionally, the Central Committee of the union was significantly weakened also in terms of resources as around 80-90% of membership dues remained with the local organizations<sup>75</sup>.

Hence, in the framework of the campaign "Euro-2012: Decent Work Campaign" in the course of the preparations firstly detailed arrangement had to be made between the CBMIWUU Central Committee and participating regional committees as regards activities and their direction, methods, and local capacities to implement the campaign, as well as the distribution of membership dues and benefits. In some regions which are characterized by stronger organizations (e.g. in Kharkiv and Donetsk) regional committees possess enough capacity and experience to act autonomously, and to ensure workers' protection and representation also as regard the campaign aims. Yet in other regions (e.g. L'viv) union organizations are weaker, hence, there arises a need to channel the activities and target those workers by the Central Committee itself. This might also result in the establishment of new local structures. All in all, the campaign facilitates the spurring of activities over the traditional borders of one or another level of union work. Where regional councils are able to fulfil their representation functions, they undertake the responsibility for workers. Workers under those regional structures that cannot or do not want, will be targeted from the top<sup>76</sup>.

Particularly acute in terms of such organizational cohesion of the CBMIWUU do the issues of the horizontal relationships - the inter-regional union cooperation - arise in the case of the construction of the L'viv stadium in the Western part of Ukraine. Whereas the General Contractor of the stadium reconstruction originate from the Eastern region (Azovintex is based in Mariupol' in the Donetsk province), its workers are organized into the local union organization that is affiliated to the CBMIWUU Donetsk Oblast Committee of Trade Unions. The President of the L'viv Oblast Committee, Sofia Chunis co-signed the Memorandum promoting the Decent Work Campaign, and hence, also expressed the commitment of her organization to the campaign implementation. Unfortunately, she could not contribute to the current research so that the position of the L'viv Regional CBMIWUU Committee could not be embraced sufficiently in the process of this research. Yet earlier, in the previous phone

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<sup>75</sup> Interview with Vasyl Andreyev, the Vice-President of the CBMIWUU, Kyiv, 26 August 2009.

<sup>76</sup> The same source.

conversation Sofia Chunis noted that in spite of the fact that stadium construction workers are currently in L'viv, their protection and representation was in the sphere of activities of the Donetsk Council and hardly had any relevance for the local union. "I told them, come over, book the hotel, and go to your members", said Sofia Chunis in the view that the membership dues are transferred to the Donetsk and not L'viv Council<sup>77</sup>. At the same time the collective agreement provisions made in Mariupol' extend also to the company workers sent to L'viv. Once accidents happen, a union representative from Mariupol' arrive for investigation on the next day only.

### ***Education as a re-fashioning tool***

The revitalization processes of the CBMIWUU has been further facilitated through educational activities of the Building and Wood Workers' International (BWI), other Global Unions Federations (GUFs), and through bilateral cooperation of the CBMIWUU with other union of other countries (e.g. with the unions from Sweden and Holland). A two-years project initiated by the International Trade Union Cooperation (ITUC) together with the national union centres in Ukraine (in which the CBMIWUU also participated) facilitated the promotion of young workers' interests, and the development of youth infrastructure and young leadership<sup>78</sup>. The BWI has been working with the CBMIWUU (who has been affiliated to the BWI through years) for some time now on the issues of its development and capacity building. Among others, the Ukrainian union was trained on the issues of organizing and capacity building. During this first cycle of the project activities the partners worked on the implementation of the study circle method within the union structure. Then, as a result of these activities 1,500 new union members were recruited, 138 local study circles were set up and 2 blocks of study materials were published and distributed<sup>79</sup>. Signing 3 new local collective agreements with the biggest employers in cement industry further exemplified the project outcome and success not only on the top level but also in the field<sup>80</sup>.

In May 2007 the second two-year cycle of the project was launched and, in a new development, separated from the Russian programme of the BWI's activities. "Trade Union Development and Organising in Ukraine" (that is how the project is called) is going to facilitate the development of education and youth infrastructure that would further help

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<sup>77</sup> Phone conversation with Sofia Mykhaylivna Chunis, the President of the Lv'iv Oblast Committee of Building and Construction Materials Industry Workers' Unions, L'viv, 30 March 2009.

<sup>78</sup> See Manual "Профсоюзная молодёжь Украины: через Обучение к Действиям» (Trade Union Youth of Ukraine: Through Education to Actions), Kyiv – 2008, prepared as a result of the IBPP TACIS project "The promotion of interest of young workers through the instruments of social partnership" sponsored by TACIC programme of the European Union.

<sup>79</sup> "BWI opens a separate trade union development project in Ukraine", BWI's news dated of 22.05.2007, available at <http://www.bwint.org/default.asp?index=831>, last visited on 25 August 2009.

<sup>80</sup> The same source.



organizing and recruitment<sup>81</sup>. The focus of the educational activities on “negotiation – campaigning – organizing” that have, so far, addressed the central dimensions necessary for union revitalization, hence, re-enforces to the assumptions of the strategic role of education as a tool for union re-fashioning.

### ***Collective Bargaining & Agreements***

According to the tripartite Memorandum signed earlier by the CBMIWUU with the Construction Ministry and big state construction companies in response to the global financial and economic crisis in Ukraine, a new round of sectoral bargaining should have been resulted in the new Sectoral Agreement. Later in November 2008, the trade union re-negotiated the collective agreement for 2009-2011 for the construction sector together with the Ministry of Regional Development and Construction and some big construction companies<sup>82</sup>. In the view of the trade union CBMIWUU it demonstrates that social dialogue is quite successful in the sector, for, issues raised within the dialogue are more substantive and results are available<sup>83</sup>. The agreement not only aimed at protecting workers’ wages, job places, and health and safety conditions during the crisis. It also set wage coefficients on the scale from 1.3 to almost 4. However, in the view of the crisis implications in Ukraine and numerous construction stoppages, it is not clear in how far the initial impact of the Agreement (and obedience over wages structure) could have been achieved.

All these steps demonstrate the CBMIWUU pays a great share of attention and commitment to the issues of its revitalization and focuses on the issues of education, restructuring and gaining importance for the institutions of bargaining. The particular case of the campaigning around Euro-2012 provides significant opportunities to advance this debate and further enhance the process of the revitalization. At the same time, as this brief review of union’s initiatives demonstrated there is still some gaps for the financial, organizational and activities-related consolidation within the union in order to ensure the gains from the football event.

### **CBMIWUU’s activities related to Euro-2012**

With the assistance of the BWI, the Ukrainian construction trade union’s responses to Euro-2012 were organized along the dimensions of campaigning, advocacy, and organizing that

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<sup>81</sup> The same source.

<sup>82</sup> “Ukraine: New National collective agreement in construction”, BWI web-news, dated of 05 December 2008, available at <http://www.bwint.org/default.asp?index=2005&Language=EN>, last visit on 23 July 09.

<sup>83</sup> Interview with Vasyl Andreyev, the Vice-President of the CBMIWUU, Kyiv, 26 August 2009.

could be embedded into the broader terms of the project “Fair Games – Fair Play”<sup>84</sup>. Notably, in Ukraine the CBMIWUU was the only societal actor that has raised the notion of fair employment within the agenda for UEFA actions so far. As Volodymyr Gromov, the Director of the Department for the preparations to Euro-2012 under the Kharkiv City Council informed, the Department even does not specify who is the general contractor, and has nothing to do with any issues of relevance to work of even health and safety. These are, according to Gromov, addressed by the Department of Social Protection and by the Technical Supervisory Inspection<sup>85</sup>. Whereas the Euro-2012 Department of the L’viv City Council had practiced closer relationship with the General Contractor, they, nevertheless, hardly considered any labour-related issues. And since unions were perceived in L’viv as just starting on their formation, labour rights were mostly referred to the competency of the local supervisory bodies<sup>86</sup>. Neither was the Ukrainian government sensitive about labour-related issues. Hence, the labour conditions profile of the companies undertaking the (re)construction, was second-ranked in relation to the companies’ capacities, mobility and ability to finish works on time. Similarly, second-ranked was the issue of wages of the workers engaged into the Euro-2012 construction sites. As the Minister of Family, Sport and Youth Affairs of Ukraine, Pavlenko once declared regarding wages “...we cannot pay more. Public funds should be used as economically as possible”<sup>87</sup>.

Euro-2012 was addressed by the CBMIWUU as an opportunity in the view of the cost of the investment projects (preliminary estimated at 13-billion Euro<sup>88</sup>) and the share of public attention paid to the event. Unions’ concern, first of all, related to the fact that Euro-2012 will lead to an increase in employment due to the increase in construction works on the cost of the conditions of such employment. Certain developments in construction towards the work precarization (e.g. spreading precarious forms of employment, low wages, and high levels of occupational accidents and deaths) were known to the unions also before. Globally, a system of awarding contracts to the lowest bidder elsewhere demonstrated already how fair wages, occupational health and safety, and standard forms of employment could be sacrificed. Consequently, trade unions called for fair employment within UEFA projects and counted on the public exposure of the union activities together with the fact of Euro-2012. The overall bunch of activities in terms of campaigning, advocacy, and organizing was

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<sup>84</sup> “Eurocup 2012 Poland/Ukraine: Fair Games - Fair Play!”, BWI web-news, dated of 29 January 2009, available at <http://www.bwint.org/default.asp?index=2063&Language=EN>, last visited on 19 August 2009.

<sup>85</sup> Phone conversation with Volodymyr Gromov, the Director of the Department for the preparations to Euro-2012 under the Kharkiv City Council, Cologne, 03 August 2009.

<sup>86</sup> Interview with Roman Cherkas, the Vice-Director for the stadium construction attached to the Department on Euro-2012 of the L’viv City Council, L’viv, 19 August 2009.

<sup>87</sup> „Minister: „We pay workers minimum wage here at Kiev stadium reconstruction site”, BWI web-news, dated of 15 July 2009, available at <http://www.bwint.org/default.asp?index=2359&Language=EN>, last access 19 September 2009.

<sup>88</sup> The same source.

planned as a campaign under the umbrella of the project “Euro-2012: Campaign for Decent Work”. They are discussed below in turn.

### ***Campaigning***

The launch of the international campaign “Euro-2012: Campaign for Decent Work” in January 2009 aimed at “improving working conditions, wages, ensuring the quality of jobs, as well as achieving zero accidents at construction sites and facilitating skills development programmes”<sup>89</sup>. At the background of the controversies of the public procurement in Ukraine, the campaign also aims at increasing transparency of the tender contracts and enforcing labour legislation down the supply and subcontracting chains of relevance to Euro-2012<sup>90</sup>. These activities, organized partly in cooperation with the Polish construction workers’ union named Budowlany (affiliated to OPZZ) also gained the international relevance as they are embedded into the worldwide trade union campaign “Decent Work for Decent Life”<sup>91</sup>.

In Ukraine and Poland, unions re-stated that

*“the global trade union movement is also imagining zero accidents on the work sites where workers are paid decent wages and afforded social protection so that workers are allowed to join unions, which skills are developed and sustainable employment is created. We expect transparency of bid and award documents that ensure labour standards are followed. We expect the enforcement of European, Polish and Ukrainian legislation that covers trade union organising, collective bargaining, occupational health and safety, and procurement”<sup>92</sup>.*

Euro-2012 was clearly perceived as an additional opportunity for both the Ukrainian and Polish trade unions to learn from the experiences at labour internationalism and the good practices in using such big sports events to increase their organising capacities and recruit more members<sup>93</sup>. In the framework of international cooperation some successes of and lessons for such union campaigning and organizing were already accumulated from the South African experience, for example. Here in less than two years, BWI affiliates increased the proportion of unionised workers on World Cup 2010 building sites from 10% to 35%, and achieved significant social progress such as raising the minimum wage and adherence to

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<sup>89</sup> “EURO-2012 preparatory process is also trade union business!”, BWI web-news, dated of 17 March 2009, available at <http://www.bwint.org/default.asp?index=2152&Language=EN>, last visited on 19 August 2009.

<sup>90</sup> The same source.

<sup>91</sup> “Профспілки України і Польщі за гідні умови праці на об’єктах Євро-2012” (Trade unions of Ukraine and Poland speak out for decent working conditions at the construction sites for Euro-2012), Unian news-agency, news dated of 26 January 2009, available at <http://football.unian.net/ukr/detail/2349>, last visited on 25 August 2009.

<sup>92</sup> A Memorandum to Ukrainian and Polish Governments, UEFA, employers from Poland and Ukraine, available at <http://www.bwint.org/pdfs/Eurocup2012MemorandumUkrainePoland.pdf>, last visited on 19 August 2009.

<sup>93</sup> “Eurocup 2012 Poland/Ukraine: Fair Games - Fair Play!”, BWI web-news, dated of 29 January 2009, available at <http://www.bwint.org/default.asp?index=2063&Language=EN>, last visited on 19 August 2009.

statutory labour legislation, improvements in collective agreement provisions, and the introduction of health and safety representatives<sup>94</sup>.

Certainly, international networking and cooperation as well as spreading solidarity across the national borders are supportive of the revitalization of the Ukrainian building workers' unions. And its advantages go far beyond technical assistance while delivering confidence and inspiration for further revitalization processes (a quite significant effect at the background of the criticism of the passivity of leaders of the Ukrainian unions). As Vasyl Andreyev, CBMIWUU Vice-President once declared:

*“The Ukrainian Building Workers’ Union is supported by a wide international union network, calling for positive changes for building workers in the sport business. The trade unions have achieved specific results in EURO-2008 in Switzerland and Austria as well as in South Africa’s World Cup 2010. For sure, our campaign will be successful”<sup>95</sup>.*

Whereas so far, active campaigning used to be the prerogative of the capital city, the union succeeded at extending the campaign activities beyond these borders, and so, could have consolidated on its horizontal relationships. Interestingly, the campaign spurred over the borders of the Central Committee’s activities in Kyiv by building workers’ union that recently withdrew from the CBMIWUU Central Committee, nevertheless, remaining in a close contact with the union. So the issues of inter-regional union coordination go close with the issues of inter-union relationships, and are going to be discussed through the case studies.

### **Political level & advocacy:**

At the political level, the Construction and Building Materials Industry Workers' Union of Ukraine took part in parliamentary hearings on the EURO-2012 preparatory process in March. The union's Vice-President, Vasyl Andreyev delivered a statement to the Parliament and hearings members as well as to media while saying:

*“Big sport events became big business. Our union’s interest during Euro cup finals preparatory process focuses on decent wages for building workers who have the right to receive their part of the championship profits”<sup>96</sup>.*

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<sup>94</sup> The same source.

<sup>95</sup> “EURO-2012 preparatory process is also trade union business!”, BWI web-news, dated of 17 March 2009, available at <http://www.bwint.org/default.asp?index=2152&Language=EN>, last visited on 19 August 2009.

<sup>96</sup> The same source.

Trade unions believe that action should also be directed at the UEFA president, Michele Platini - as BWI together with the affiliates are going to apply pressure to comply with statutory provisions in the construction of the stadiums and fair working conditions for building workers. However, so far, such patterns could not be identified. Hence, there is a need for union to plan in advance the way of targeting the UEFA-related authorities. In particular, unions could learn from the experience of targeting the meetings, audits, and visits of the UEFA representatives taking place in Ukraine.

### ***Organizing***

In contrast to many unions in Ukraine, CBMIWUU practiced organizing and experimented with the new organizing techniques. Around 5% of the union budgets were agreed to be allocated to organizing activities. As the Vice-President of the union, Vasyl Andreyev tells, in its recruitment work it uses the target-problem approach. Individually approaching workers is better suited to the context of the post-socialist transformation in Ukraine in the view of the lack of legitimacy of unions in workers' eyes and the legacies of "the alienated collectivism". As Vasyl Andreyev put it, "Time of words is over on our country now. One can hardly convene somebody with nice words. People want real solutions. We are ready to provide assistance prior to the establishment of trade union". The trade union realizes that it is how motivated rank-and-file members base can be developed and hence, the union-workers' relationships established at the beginning.

Even though it is to note here, that in terms of Euro-2012 organizing across the relevant construction sites bears not much of organizational and economic power. Around 10,000 workers are employed here, which means a certain share of membership dues, but not so high. However, its opportunities are more far-reaching than that. They extend to the revitalization of the overall union organizing activities, which result in the conscious and active membership, and will likely bring about the changes in the union image. Here organizing plays a rather political role, in the view of the snowball effects, and the possibility to attract the attention of media, take columns of the newspapers, and go on television.

In the course of organizing in the run up to Euro-2012 certain obstacles to organizing also could be already identified. Vasyl named both internal and external. Whereas not all local leaders are ready and willing to engage in such difficult work (internal), there are also the problems with the access to workers at construction sites (external). For example, in the case of the construction of the stadium in Donetsk, unions practically had no physical access

to workers from Turkey. On the other hand, some psychological pressure is put on workers, and they are asked not to talk to outside organizations<sup>97</sup>.

At this point activities and responses of the CBMIWUU to Euro-2012 were highlighted and some needs for and obstacles to its revitalization were outlined. Whereas the very revitalization process of the CBMIWUU is embedded into the broader context of the Ukrainian transformation, and so, many developments are not really conducive to the advance of union revitalization, this account also identified problems that are inherent to unions themselves. Those relate to structure and its cohesion, the relationships with membership and constituencies, vertical and horizontal inter-union relationships, and so on. Hosting Euro-2012 open up certain opportunities for the union to test its protective role and re-gain its legitimacy among workers while drawing on the public exposure, and hence, attention of the society. Every construction site is unique, as its constellation of actors, activities, and processes is determined locally. It poses demands on the union to flexibly approach the given constellation and quickly finding the most effective responses. As all companies who appear as General Contractors at the three stadium construction sites are organized, unions already have a foot in them to enforce the goals set by the campaign. Even though not without obstacles. Next the situation at each of the three stadiums which were included in the research (L'viv, Kharkiv, and Kyiv) is discussed in detail. Here the problems of the unions as well as chances for the revitalization are elaborated here in its depth.

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<sup>97</sup> Interview with Vasyl Andreyev, the Vice-President of the CBMWUU, Kyiv, 26 August 2009.

## **PRIVATE AND YET PATERNALISTIC? THE EXAMPLE OF “METALLIST” (KHARKIV)**

The example of the preparations to EURO-2012 in Kharkiv (the Eastern border of Ukraine) is peculiar in that the overall preparations process have been coordinated by the private investor. Here the reconstruction of the very stadium, as well as the airport, hotels, and further infrastructure was undertaken based on private investments, and the share of state budget contributions remained quite low. Major investor – company Development Construction Holding (DCH) – not only overtook the investments but also expanded its commitments while preparing and coordinating the implementation of a complex programme aimed at the reconstruction and development of related sports, tourist, transport, social and cultural infrastructure facilities in the city. Interestingly, the fact of the involvement of the private capital lets one to consider this case at the background of the other two ensured by the public procurement. However, as it became evident from the field research, none of such consistent differences could have been identified, because of the tight interrelation between these “new” private, and private based on the former state construction companies.

On the one hand, in order to understand the nature of private investors’ commitments to broader social goals, one should think about the realities of the Ukrainian politics of early 90-th. “Spontaneous” (non-controlled) privatization, and the consolidation of assets (partly in a criminal manner) in the hands of certain people who were later on called oligarchs led to the emergence of the regional industrial-financial groups. The assets accumulated by them were huge, and aimed at the establishment of more or less consolidated supply and value chains. For example, if steel mill was privatized, so were also the mines providing coals for the mill. Such regional coordination of assets led also to the increase in the political influence of these rich regional groups of people, channelled later on to the top – Parliament of Ukraine. In 2003-2004 there took place the rotation of elites within the authoritarian regime of Ukraine imposed at that time. Surprisingly, the re-confirmation of oligarchies’ regional power also embraced a sort of competition for patriotism to the “own” region, and resulted in charity and other social activities of these groups.

This kind of “patriotism” (including commitments to construct the stadium and facilitation of sport events) among businesses more or less resembles what is known in the Western European scholarly as Corporate Social Responsibility (CSR). Here, the notion of business’ responsibility emphasizes its relationships with the stakeholders, communities in which they are based, and different charity activities. However, the CSR concept in the way it was embraced by business lag far beyond the re-definition of the companies’ relationships with employees through their collective representation bodies, and by means of collective

bargaining with unions. A similar CSR perception was also demonstrated by one of investors, the company DCH. Olexandr Yaroslavsky, the President of the DCH Supervisory Board, DCH Beneficiary, and the President of the Kharkiv-based football club “Metallist” is known not only as a successful businessman, but is also for his engagement with the arts, sponsoring activities in the Ukrainian sports. His commitment to CSR embraced charity projects such as the Ridny Dim Charity Fund, and financial contributions to the Hospital of the Future<sup>98</sup>. Respectively, in the view of such philosophy and of the experiences with the planned economy with its legacies the understanding of the approaches of these businesses to Industrial Relations, and to Euro-2012 should be explained.

## **CSR**

CSR constitutes for the company DCH and its President, Yaroslavsky, not a fashion but a conscious approach, notes Olena Derevyanko, the Adviser to the DCH President<sup>99</sup>. It is seen as an indispensable component of doing business, which, unlike other companies, in the case of DCH is used not for PR-purposes (like many do), but rather for the realization of social aims accompanying business. According to the DCH Group web-page,

*„DCH is actively contributing to the growth of prosperity and the improvement in living standards of Ukrainian society. The Group regards corporate social responsibility as a strategy towards achievement of commercial success, which is based on ethical codes and respect for people and the environment”<sup>100</sup>.*

CSR is enshrined in the principles of being responsible towards employees, consumers, partners and co-investors, competitors, as well as society and the state.

In particular, in case of Euro-2012 it is reinforced through a broader vision of the significance of hosting football games in Kharkiv. On the one hand, it is the issue of image and prestige, for Ukraine, and for the city of Kharkiv. The perception of Euro-2012 also embraces the broader vision of sport – towards understanding it as a means of life-long healthy style of living. In this, and like the Brazilian model of sports promotion, attention is paid to the education of younger generations (incl. younger football players) to be able to offer something in the future. The program of the preparations for Euro-2012 embraced those views in that the investor’s commitment was made to reconstruct the stadium, the airport, to build the multifunctional sports, entertainment and shopping mall, educational and training

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<sup>98</sup> “Key person”, DCH Group corporate web-site, available at <http://www.dch.com.ua/en/about/head/>, last access on 23 September 2009.

<sup>99</sup> Interview with Olena Derevyanko, Adviser to the DCH President, Kyiv, 20 September 2009.

<sup>100</sup> „Corporate Social Responsibility“, DCH Group corporate web-site, available at <http://www.dch.com.ua/en/about/otvet/>, last access 23 September 2009.



base, and children and youth football academy. In particular, the role of the stadium is in the popularization of the healthy life style and of the philosophy of active living among the Kharkiv citizens. All in all – around \$573 Mil. of investments “in the name of the progress”<sup>101</sup>.

Whereas the notion of CSR as a way of attitude to people also indirectly embraces the issues of good working conditions and workforce motivation, it is yet far from the understanding it in terms of employer-employees classical work-related relationships. Generally, so called “labour ethic” came back to the new Ukrainian business only recently. On the one hand, it was the system of team work that rather resembled Human Relations-like approaches. Yet others practiced CSR approaches embracing doing businesses in compliance with the labour legislation, provision of the “white” employment and the payment of “white” wages, calculation of bonuses according to the system of grades<sup>102</sup>. Hence, the principles of the responsibility towards employees (as a part of the Group’s CSR) have combined the application of “the it should be admitted that construction workers of the private firms are paid higher.

As Olena Derevyanko notes, “we haven’t yet gone that away from socialism”, while referring to the IR-related issues. In particular, as regards of trade unions, she notes, it is difficult to differentiate between “yellow” independent unions, and classical independent trade unions, which “exist somewhere”. IR patterns rather reminds on the expression “the owner is tough but in justice”, which reflects an authoritative but paternalistic manner of management. These issues are, nevertheless, aggravated down the supply and contracting chain, where decent working conditions and workers’ rights yet have not established themselves as criteria for the choice of subcontractors and suppliers. It is first of all subcontractors’ and suppliers’ adaptability that served as the major criterion to choose them for the reconstruction of the Kharkiv stadium. As relationships with suppliers and subcontractors acquired a more civilized manner, it is still loyalty rather than responsibility towards suppliers that continues to play a major role. Hence, IR issues are at the suppliers’ and subcontractors’ deliberation depending on their managers and their attitudes to IR.

Notably, in the view of the consolidation of economies and assets the biggest construction companies are able to conduct almost the whole cycle of construction works so that the need for subcontractors is quite small and limited to certain specific works only. In the case of the stadium “Metallist”, according to Elena Derevyanko<sup>104</sup>, around 5 subcontractors were

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<sup>101</sup> DCH Group corporate web-site, available at <http://www.dch.com.ua/en/about/head/>, last access on 23 September 2009.

<sup>102</sup> Interview with Olena Derevyanko, Adviser to the DCH President, Kyiv, 20 September 2009.

<sup>103</sup> The same source.

<sup>104</sup> Interview with Olena Derevyanko, Adviser to the DCH President, Kyiv, 20 September 2009.

needed, for, the rest of works could be conducted by the general contractor company<sup>105</sup>. Similarly, in the case of the reconstruction of the airport, 3-4 companies<sup>106</sup> were further engaged by the General Contractor in the construction works<sup>107</sup>. Like in the case of the stadium, also here technological capacity and machine equipment, as well as the ability to urgently conduct works was a leading criterion for the choice of the company “Stal’konstruktsiya”. At the same time, labour conditions and health and safety issues are referred to the responsibility of the General Contractor and single subcontractors, for which a clause on the compliance with the labour law in the agreement was included. Further labour protection issues are referred to the competency of the regional authorities and inspection. This positioning of the labour-related issues within the subcontracting chain should be addressed by trade unions in order to capitalize on the prospects and mechanisms of its revitalization.

### **Stal’konstruktsiya**

Limited Liability Company (LLL) “Stal’konstruktsiya” received general contracting tender for the reconstruction of the stadium “Metallist” in Kharkiv. In the next subsection its background and involvement into the reconstruction of the stadium is discussed. It is hypothesized that the current pattern of the enterprise-based IR is pre-determined by the company background and history, as well as by the personal qualities of the top-management and its Chief Executive Officer (CEO) Mr. Yevel’. Trade union position at the moment of the reconstruction of the company is another pre-determinant. The following subsection elaborates on the IR issues in the context of Euro-2012. It is followed by the sections on trade union activities, and concludes with some comments on the prospects of union revitalization.

### ***Company background***

The roots of the company originate from the socialist economy. Then, in 1966, the predecessor of the company, Kharkiv specialized department Nr. 127 on the installation of metalware was established within the trust “Kharkivstal’konstruktsiya”<sup>108</sup>. In 1992 in the course of economic restructuring LLL “Steelconstruction” was established on the base of the above mentioned specialized department, which further specialized on the manufacturing of the metalware and installation works in civic and industrial construction. In 2005, it separated from the trust “Kharkivstal’konstruktsiya” and changed into a private enterprises in the form of LLL. But yet, the company is a branch of the All-Ukrainian corporation “Stal’konstruktsiya”.

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<sup>105</sup> The general contractor told they have worked with around 40 subcontractors and suppliers at this given construction site. See interview with the CEO of Steelconstruction Sergey Yevel’, Kharkiv, 21 August 2009, and the interview with Dmitriy Konstantinov, Vice-President of the Steelconstruction trade union, Kharkiv, 21 August 2009.

<sup>106</sup> „Zolotyie Vorota“ (Kyiv), „Al’tkom“ (Donetsk), and „Aitis“ (Kyiv).

<sup>107</sup> Interview with the Vice-Director of the Kharkiv airport.

<sup>108</sup> „History of company“, Stal’konstruktsiya’s web-page, available at <http://www.steelconstruction.com.ua/en/>, last access on 23 September, 2009.

Interestingly, even though the company is considered as private, its ownership is dispersed across legal and physical entities, and its CEO has been involved into enterprise in different position since late 70-s. It obviously explains the state of relationships between the company and its 274 employees<sup>109</sup>, including 105 of its technical and engineering staff<sup>110</sup>.

As a part of the trust, already in 1984 the company participated in the re-construction of the southern tribune of the stadium, as well as it did in 2001 and 2006 - 2007<sup>111</sup>. Hence, the company have already accumulated the experience of the company in such volumes of works that are required at stadium construction sites. The correlation of cost - quality of works – speed of works criteria were complemented by the evaluation of the equipment base of the company and the availability of skilled workers and technical staff. This is how the company won the tender for the reconstruction of the stadium, informs S.Yevel, the CEO of the company<sup>112</sup>. At the same time, labour-related issue were seen as irrelevant as far as the choice of the contractors is concerned.

### ***Company IR***

Surprisingly, in the course of the case study it came out that the general contractor at the Kharkiv stadium is unionized. As of today around 70-75% of Steelconstruction employees joined the existing union<sup>113</sup>. The new trade union organization was established (basically the existing organization was re-registered) when the enterprise was restructured in 1992<sup>114</sup>. As the President of the Kharkiv Oblast Committee of the CBMIWUU, Mykola Balala notes, the management of the enterprise was cooperative in terms of establishing a union organization here<sup>115</sup>. “Managers understood the union’s demands”, and “our employer and union have a full understanding of each others, employer helps the trade union as far as he can”, as the Vice-President of the Steelconstruction union, Dmitriy Konstantinov put it<sup>116</sup>. Even the positioning of the union leadership at the staff meetings – on the right-hand side from the management (pointed to by Balala) seemed to be traditional, and at the same time symbolic of such management-union understanding. As these citations demonstrate, even in the private enterprises (in the view of the company’s past traditions) the cases of collaborative and paternalistic employer-union relationships prevail, yet too much resembling the previously existing patterns of paternalistic IR.

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<sup>109</sup> The same source., even though the vice-President of the company trade union mentioned the number of 400 Steelconstruction workers working at the stadium.

<sup>110</sup> Interview with the CEO of Steelconstruction Sergey Yevel', Kharkiv, 21 August 2009.

<sup>111</sup> The same source.

<sup>112</sup> The same source.

<sup>113</sup> The same source, as well as MacShane (1995).

<sup>114</sup> Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009.

<sup>115</sup> The same source.

<sup>116</sup> Interview with Dmitriy Konstantinov, Vice-President of the Steelconstruction trade union, Kharkiv, 21 August 2009.

Notably, the practiced IR model was claimed to be based not on fundamentals of interest antagonism between capital and labour but, indeed, aimed at promoting unity of interests between both<sup>117</sup>. With the collapse of the socialist system a certain degree of continuity is identified in the current IR analyses, including the still existent collaborationist traditions between the management and unions<sup>118</sup>. At the same time, exactly such collaborationist approaches on the part of the union are likely to weaken the union post-1991. As Ashwin (2007) elaborates, it positions the union in a quite sensitive role of “serving two masters”. On the one hand, union tries to retain cooperative relationships with the management; on the other hand it yet looks for services to keep their members interested. Hence, the union keeps the provision of social and welfare services alive, and in the meanwhile, workers continue to disassociate it from the genuine representation of workers’ interest<sup>119</sup>. Local trade union, thus, appears not as workers’ representative, but rather as a buffer between the management and workers<sup>120</sup>, pushing not for “European-like” (wages) demand, but still for “old demands”, which is also recognized by Balala<sup>121</sup>.

How should the persistence of such paternalistic approaches to IR be explained, and whether does it offer any prospects for union revitalization? In order to answer this question, several issues should be considered. Firstly, as the Vice-President of the Stal'konstruktsiya union explains (who, notably, also chairs the legal department of the company)<sup>122</sup>, the foundations for such paternalistic-like IR partly originate from the labour laws. For example, if the enterprise provides the money for union’s cultural activities, these amounts are then tax-free, so that employers save 15% tax it would have to pay otherwise. Further, the Ukrainian law obliges employers to provide at least 0,3% of wages funds for recreation and cultural activities organized by the trade union. Secondly, Sergiy Yevel, the company CEO also recognizes that his management style goes back to the paternalistic traditions of the past that were practiced under the socialist system:

*“Assistance to workers is a moral-ethical issue. You work with people not only one year, you work with them longer, sometimes over thirty years. Those are both already experienced workers and youth. If a person knows he or she is socially protected (s)he works better ... Many organizations take and lay off people. We try to give them work”<sup>123</sup>.*

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<sup>117</sup> E.g. see a detailed Marxist class-based analysis elaborated in Clarke (2004) or Slomp, van Hoof and Moerel 1996).

<sup>118</sup> E.g. Ashwin (2004. 2007). See the conceptual approach of the study.

<sup>119</sup> It rather appears as a sort of the chicken-egg debate, whereas unions points to the consumerists demands imposed by members on the unions, and workers stress purely social-welfare nature of services provided by the union. E.g. see Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009.

<sup>120</sup> Ashwin (2007).

<sup>121</sup> Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009.

<sup>122</sup> Interview with Dmitriy Konstantinov, Vice-President of the Steelconstruction trade union, Kharkiv, 21 August 2009.

<sup>123</sup> Interview with the CEO of Steelconstruction Sergey Yevel', Kharkiv, 21 August 2009.

The union Vice-President stressed earlier that the enterprise management is quite receptive to workers' needs. For example, the company helps in cases of funerals, assists the family of workers who die at the construction site<sup>124</sup>. As this case demonstrates, personal characteristics of the management have a significant weight at the background of the forms of ownership in determining the pattern of IR. Even though Steelconstruction is a private one, paternalistic approaches have continued to characterize its management, for, such traditions go back to the pre-history of the company establishment, and its experiences accumulated under the socialist system.

Thirdly, such paternalistic approaches to IR used to be characterized also by "authoritarian" traditions<sup>125</sup>. Consequently, they were identified as "authoritarian paternalism", and were claimed to some extent to substitute the need for independent interest representation and collective action. To some extent the prospects of the union at the enterprise have been pre-conditioned by the management's perception of the union and generally, IR issues, which is also recognized by the union itself. "Trade union works due to director's understanding of workers' position", says union Vice-President<sup>126</sup>. Yet, in other cases, where unions have not succeeded to retain its presence, they emphasized management's attitudes as a part of the cause for union disappearance. As Mykola Balala, the President of the Kharkiv Oblast Council put it,

*"Union activities in the private enterprises and its relationships with the private owners depend on manager. A normal manager understands the benefits of the cooperation with the union... Yet in other enterprises, managers refuse to see these benefits ... Organizing in the new private enterprises is more difficult, as manager does not want any extra structures at the enterprise".*

This paternalist-like style of management is quite supportive of the union successes at the given enterprise and at a given point of time. It should be respectively addressed by trade unions from the perspective of still building a more sustainable basis for its activities in the form of conscious membership and union autonomy, which is likely to challenge to some part, certain management attitudes to IR.

### ***Collective bargaining at Stal'konstruktsiya***

Once every two years the company re-negotiates and signs with the trade union collective agreement. However, it is not quite clear, in how far it is given the effect in terms of

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<sup>124</sup> In one of such cases the family received financial compensation, its credit was overtaken by the enterprise, and the son received a place in the university and an apartment in the city of Kharkiv.

<sup>125</sup> E.g. see Ashwin (1999, Clarke und Fairbrother 1994, Clarke 2004, Kabalina, Monousova and Vedeneeva 1996).

<sup>126</sup> Interview with Dmitriy Konstantinov, Vice-President of the Steelconstruction trade union, Kharkiv, 21 August 2009.

determining decent wages and working conditions. As the union Vice-President comments on the processes of collective bargaining, during each round of the negotiations amendments are made in line with the new laws or legal changes, and the provisions of the sectoral agreement for the construction sector. Recommendations of the health and safety audits are also overtaken into collective agreement. Similarly new tariff coefficients are re-negotiated along the indexation of wages being done by the state municipal department of labour and social protection. For example, for the lowest level skilled work wages are multiplied by 1,2, for, this coefficient increases the higher the skill grade. In average, wages amount to 2,500 UAH (equivalent of 210 Eur), which is higher than the average wage in the region (of 1915 UAH<sup>127</sup>), and in the sector (of 1586 UAH<sup>128</sup>). Sometimes, as the union Vice-President notes, the wages paid by the Stal'konstruktsiya are even higher than those set by the sectoral agreement. Wages increases are correlated to the financial situation of the enterprise. On the other hand, in terms of wages Stal'konstruktsiya's workers are better positioned in the region. Yet, on the other hand, the sufficiency of such wages (as related to works) can be put into question.

### ***Organizing & subcontracting chain***

The level of the unionization in the construction sector in the Kharkiv region dropped to 11,000 members. As elsewhere across the countries of the former Soviet Union<sup>129</sup> such decline in union membership was caused by the structural changes within the branches, and in construction, in particular. Harsh drops in union membership demonstrate that unions were not really responsive to the structural developments, and so, lost their coverage and significance. As building workers' union traditionally has organized prevalently trusts that were building living houses and apartment blocks, and industrial buildings, during the privatization many companies embarked on workers lay offs<sup>130</sup>. At the same time, the volumes of the industrial construction fall down pre-supposed by harsh economic conditions. Instead construction shifted towards the erection of commercial premises (e.g. supermarket or shopping malls) more likely to be organized according to the market logic of cost competitiveness and hardly effectively addressed by trade unions<sup>131</sup>. Further reason

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<sup>127</sup> As of July 2009. See „Середня заробітна плата за регіонами за місяць у 2009 році“ (Monthly dynamics in average wages across regions in 2009), Ukrainian State Statistics Committee, available at <http://www.ukrstat.gov.ua/>, last access on 23 September 2009.

<sup>128</sup> The same source.

<sup>129</sup> Chernyshev (2006), Crowley and Ost (2001).

<sup>130</sup> Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009.

<sup>131</sup> One of the respondents in L'viv, for example, shared her experience of working with one Turkish construction company that has built a trading centre. According to her, working conditions were far from being decent, and workers were treated in a very rude manner. Their manager could show up on one day, and tell some workers they are going to be fired, so they don't need to come to work on the next day any more. Workers were paid their two-weeks wages, in violation of the current labour legislation, anticipating a two-month note to workers on lay offs.

originates from the implications of the global financial and economic crisis and construction stoppages<sup>132</sup>. In particular, crises also prevented recruitment activities of the union.

At the same time, unions were not so fast in tackling newly emerging companies by means of organizing. Not least, because, the formerly big construction entities were replaced by many small enterprises, and self-employed workers. Generally, in the view of the Ukrainian trade unions, organizing such enterprises (in particular, small) was hardly possible, so that across countries and sectors there emerged an “organizational gap” in micro and small enterprises<sup>133</sup>. Additionally, the seasonal nature of construction works has not facilitated union organizing approaches as well. As a result of the economic dynamics, as Balala further describes, there are four or five state enterprises left and that are unionized, for, the rest of them were reorganized into joint stock and limited liability companies. Hence, where former state enterprises were reorganized, trade unions could also be re-organized, too (e.g. the case of Stal'konstruktsiya), thus, as if emerging in the private sector of economy. But where new enterprises were established from scratch they were hardly addressed by the union activities. Consequently, as also stressed by Balala, whereas membership in the Oblast union declined, the number of organizations remained the same<sup>134</sup>.

Another obstacle to organizing, as was pointed by the President of the Kharkiv Oblast Committee of trade unions, is the orientation of workers towards union traditional services - recreation vouchers. Whereas European trade unions formulate major demands in terms of wages and working conditions, “Ukrainian trade unions pose yet old demands ... But we are on the way to a European trade union, and our members want it”<sup>135</sup>.

Irrespective of the obstacles and problems outlined above, a degree of the recognition should be given to the union structural initiatives. Interestingly, in the run up to Euro-2012 the Committee of trade unions launched a discussion on the prospects of establishing a united organization of the construction workers working at the stadium and airport in Kharkiv. It was expected at the point of time this research was conducted, that construction companies from Donetsk and Kyiv will be invited to reconstruct the Kharkiv airport. However, it was yet not clear in which way the issues of the inter-regional union cooperation will be tackled, and how this new trade union is going to negotiate. Undeniably, the launch of the debate on new forms of union organizations that are more or less responsive to the structural specifics is more advanced here than in other regions.

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<sup>132</sup> Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009.

<sup>133</sup> Webster (2008), available at [http://www.global-labour-university.org/fileadmin/GLU\\_Working\\_Papers/GLU\\_WP\\_No.3.pdf](http://www.global-labour-university.org/fileadmin/GLU_Working_Papers/GLU_WP_No.3.pdf), last access on 23 September 2009.

<sup>134</sup> Interview with Mykola Balala, the President of the Kharkiv Oblast Council of the CBMIWUU, Kharkiv, 21 August 2009

<sup>135</sup> The same source.

### ***Core and periphery***<sup>136</sup>

From the interviews and media reviews conducted for this case study the reconstruction site of the stadium “Metallist” it became clear that the construction works were prevalently placed within the core segment of the construction sector. Here workers are unionized, employed formally, receive social and welfare benefits, and comparatively higher wages. As some workers during the visit to the site informed, they had a written contract, received wages on time, and his sick leaves (unless longer ones) were also covered. Hence, the whole group of workers around him told, they were satisfied with the conditions of employment, even though not with wages. At the same time, in the current labour market conditions people rather restrained from demanding higher wages as they were aware, twenty other people are waiting for this workplace outside.

However, during the visit to the construction site some workers were identified who worked there informally, renewing their oral agreements every day. One of such workers Sergiy was laid off in 1997. Since then he has remained unemployed and earned his subsistence by so called “shabashka” as no other jobs were available in the region. Shabashka - this is how employment in the informal segment of the construction sector is called. There is no written agreements here, no benefits, no social insurance. Workers are paid 70-150 UAH a day for works that do not require special skills (e.g. layers or bricklayers) depending on how they negotiate individually. Workers’ earnings could be increased up to 300 UAH a day if they decided to stay to work in two shifts (which is day and night).

According to Sergiy, such people as him could find many “shabashka” opportunities at the stadium in Kharkiv. Per shift approximately 20-50 workers were around, including his son. Normally, Sergiy would go home after the first shift, as he lives in the neighbouring village one and a half hour away from Kharkiv, as he could not pay for renting or buying apartment in the city itself. He would cook for his family as he had a disabled wife and two daughters, and so, he could not stay for the other shift. But his son would stay over night to ensure at least some income to feed their household.

As everyone knew who the General contractor of the construction was, people told, they were employed by the Stal’konstruktsiya. However, neither the company, nor the company union seemed to be informed or aware of that. Presumably, it could be one of contractors

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<sup>136</sup> This subsection is based on informal conversations with the construction workers that were conducted at the construction site in Kharkiv, on 21 September 2009. The names of respondents were intentionally changes.



who really employed workers informally. But since none of written agreements were concluded, their real employers remained also for these workers invisible.

Sasha and Artyom informed they were earning 300 UAH a day and worked two shifts - day and night as “vol’ny” (another definition of informal workers). They told that it is up to individual negotiation of every worker, how much (s)he will receive at the end. According to him, many came here to work from the prisons (which is quite plausible in the view of high criminality levels in the region), and will either go back to prisons once works are finished, or will look for further shabashkas. They were more or less confident there would be further work opportunities in the city for the following one or two years, as the reconstruction of the airport just started in the city. Similar responses were given also by other “vol’ny” workers who agreed to talk, but generally, not many did.

Neither of these workers with whom the communication could be conducted was sensitive to the issues of collective representation and unions. Whereas they traditionally referred unions to social and welfare benefits and its distribution, vol’ny workers did not see union activities as relevant for them at all as they even did not know for whom they were working for. This contrast between the core and periphery workers confirmed the assumptions that the decent work opportunities linger the more one moves down the supply chain, and are lacking in the periphery at all. Informal employment is most likely where none of high-skilled works are required.

## **Conclusions**

The case study of the Kharkiv demonstrated some problems of the union revitalization at the background of sector- and regional-specific conditions and in private enterprises. The next two case studies differ from this one in that they will embrace the elements of the public procurement, as the (re)construction of the stadiums in L’viv and Kyiv was financed from the state, oblast, and municipal budgets. Necessarily, however, it should be taken into account how “private”, for example, Stal’konstruktsiya is. Companies originating from the former state enterprise, and in particular, as a result of the privatization by the labour collective, are identified as private, but their operations strongly resemble the way state companies operate. Nevertheless, still some conclusions can be drawn here.

Whereas unions survived at the private enterprise Stal’konstruktsiya, and succeeded in the re-registration of their structures, they made only small steps forward in terms of the revitalization track ahead of them. They remain concentrated on the core, and on the formerly established enterprises, at the point of time, when the structural changes within the

branch urgently call for broadening of union frontiers. They continue to rely on still existing paternalistic attitudes of employers, and hence, reinforce their former roles familiar to them under the socialist system. They draw benefits from the supportive pro-worker laws, and continue to provide secondary services at the point of time, where the need for organizing became so urgent. But it is not that they not try to organize, or do exclude other organizational forms of unionism. They still look for their traditional approaches to organizing. Even if little, yet some experiments of the Kharkiv Oblast Council and of the Stal'konstruktsiya union with innovative forms of union organizations were undertaken. But their fates are still too much dependent on managers' discretion. Unions should not only try. They should do everything to succeed. Even if more than just collaborations and supportive employers' attitudes will be needed for this success.

## INTER-REGIONAL ASPECTS OF UNION WORK: STADIUM IN L'VIV

The understanding of the two next cases – of stadiums in Kyiv and L'viv – should necessarily embrace the issues of public procurement and contradictions of the general preparation process in the run up to Euro-2012. Public procurement of contracts for the (re)construction of stadiums has been contradictory and non-transparent. A leading auditing and advisory company KPMG reports, that, generally in construction, in 2009 the transparency rating of public tenders in Ukraine has further decreased from its already low level of 4.3 to only 3.8 points<sup>137</sup>. Additionally, companies willing to participate in bidding for tenders frequently do not participate in bidding directly, but, indeed, “buy” market prices and tenders from so called “mediators” (lawyers, custom officers)<sup>138</sup>. According to this source, tenders are normally published but, nevertheless, can be acquired by means of informal negotiations and through personal contacts. These public procurement specifics allow to advance an assumption that that the companies with stronger political connections are likely to win the tenders.

According to the State Program 4,288 billions UAH (equivalent of 612 million USD) will be allocated from the public budget for infrastructure and stadiums (re)construction<sup>139</sup> in 2009. Media reported cases of the misuse of these public funds – a hardly surprising fact in the view of contingencies of the very allocation of public tenders. For example, in the case of stadium in Kyiv, the President of the Federation of Football of Ukraine has constantly criticized the Ukrainian government for the secret dissemination of land plots surrounding the stadium in Kyiv that all of a sudden turned out to be transferred into private ownership<sup>140</sup>. In a similar manner the news-paper “Mirror Weakly” reported on many cases of public money abuses in the context of Euro-2012. The funds for the reconstruction of the EURO-2012 infrastructure were channelled into the (re)construction of the buildings that have nothing to do with the Euro-2012<sup>141</sup>. Hence, union activities should be positioned at this background of corruption and political conditionality of tender allocation. Notably, the contingency of the allocation of public tenders advantages first of all, native construction companies.

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<sup>137</sup> KPMG (2009) The Ukrainian construction qualitative study, available at [http://www.pmrpublications.com/free\\_articles/The-Ukraine-Construction-Qualitative-Study-2008.-CEEC-Research.shtml](http://www.pmrpublications.com/free_articles/The-Ukraine-Construction-Qualitative-Study-2008.-CEEC-Research.shtml), last access on 15.05.09.

<sup>138</sup> „Fallstricke bei Geschäftstätigkeit und Personalführung in der Ukraine“, Germany Trade and Invest (GTAI) web-release dated of 19 September 2008, available at

[http://www.gtai.de/ext/Einzelsicht-Export/DE/Content/\\_SharedDocs/Links-Einzeldokumente-Datenbanken/fachdokument,templateId=renderPrint/MKT200809188009.html](http://www.gtai.de/ext/Einzelsicht-Export/DE/Content/_SharedDocs/Links-Einzeldokumente-Datenbanken/fachdokument,templateId=renderPrint/MKT200809188009.html), last visited on 15 May 2009.

<sup>139</sup> “Monitoring of preparations for Euro-2012”, President’s secretariat, Nr. 8-9, available at <http://www.kmu.gov.ua/sport/doccatalog/document?id=96874>, last visited on 10 June 2009.

<sup>140</sup> “Surkis told that at NSK “Olimpiysky” things are thrown upside down”, Unian news agency, dated of 19.05.2009, available at <http://www.unian.net/ukr/news/news-316391.html>, last visited on 25.05.2009

<sup>141</sup> “Євро-2012: хапай в обидві жмені!” (“Euro-2012: grab with both hands”), “Mirror Weakly”, issue 26 (754) dated of 11-31 July 2009, available at <http://www.dt.ua/2000/2040/66691/>, last visited on 15.07.09.

## Public procurement and the construction of the stadium in L'viv

In L'viv the tender of 609 mil. UAH<sup>142</sup> was given to and later withdrawn from the Austrian enterprise Alpin Bau GmbH. All of a sudden, even though a new tender competition was still open until 20 November 2008<sup>143</sup>, already on 12 November the L'viv mayor was authorized to sign the contract with the Ukrainian company Azovintex integrated into the business structures of Donetsk region business structures known as oligarchs<sup>144</sup>. On the next day the deputies of the L'viv municipal council blamed the mayor for avoiding the official procedures of allocating the tender as the mayor did not include deputies in decision-making:

*"A municipal Chair obtained the permission of the Ministry of Economy to choose a subcontractor as based on one-participant procedure in a non-transparent way. At the same time we received 12 bidding proposals in response to the tender we made public on 6 November. But the work of this commission and the very tender competition is just ignored by executive authorities"*<sup>145</sup>.

The process of procuring the reconstruction of airports proceeded in a similarly contradictory manner. It should be stressed that the majority of them still remain state-owned, so that with the preparations for Euro 2012 the processes of the property re-distribution should be solved first. For example, controversies around the ownership issues of the L'viv airport have been at more prioritized than the progress of preparations to Euro-2012, and stuck in the proprietors' conflict. Whereas formally the airport was transferred into municipal property of the L'viv administration, it could not be enforced as L'viv mayor Andriy Sadovyi was cited by saying:

*"...there is a President's decree to transfer it to the municipality. But it simply has not been enforced. It is a shock for me... I think in the centre are simply the private interests of certain people seeing the airport as land plots within the city"*<sup>146</sup>.

As this example demonstrates in the processes of public procurement business and political interests are overlapped – the fact that makes union activities more difficult, as unions demands on higher wages would have to challenge non-transparent and further corruption patterns. At the same time, as the cases of Kyiv (see the following section) and L'viv demonstrate, tender agreements are allocated to the companies consolidated as based on the assets of the former state companies, and which are most likely to sustain paternalistic

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<sup>142</sup> "Во Львові на стадіоне построили фундамент южной и восточной трибун" (Southern and Eastern tribunes basements were installed in L'viv) Unian news agency, news dated of 28.04.2008, available at <http://euro-2012.unian.net/rus/detail/3305>, last access 19.05.09.

<sup>143</sup> With six different companies incl. Hochtief and Yeditepe working on the reconstruction of a stadium in Dnipropetrovsk.

<sup>144</sup> Soon, it was also declared that Azovintex would also participate in the reconstruction of Kyiv stadium as well<sup>144</sup>, and in March 2009 it was given a subcontractor tender for the reconstruction of the L'viv airport's take-off sector. Within several months the company Azovintex, thus received public procurement tenders for over one and a half billion UAH.

<sup>145</sup> "Щастя на голову: імовірно, Львів матиме аж двох генпідрядників стадіону: перший - від міського голови, другий - від депутатів" (Good luck choice: probably L'viv will have even two general subcontractors – one from city mayor, one from deputies, in: Lvivpost, issue 718, dated of 13.11.2008, available at <http://www.lvivpost.net/content/view/2202/288/>, last access 5.06.09.

<sup>146</sup> Zovnishnyoekonomichnyj kurrjer, Lvivska obl'derzhadmnin. Lvivska trogovopromyslova palata, 3-4, 2008.

management styles. As these companies have traditionally been organized into unions, there is already a certain base to enhance the union revitalization process.

### **The role of the state**

According to the Vice-Director for the stadium construction of the L'viv City Council, Roman Cherkas, major choice of the General Contractor was due to its mobility (as compared to foreign companies). Public procurement tender was allocated in the case of stadium without special social pre-requirements. The sample of the agreement issued by the Ministry of Regional Development and Construction contains the clause on the contractors' compliance with the labour legislation. So, in fact, the IR issues are channelled into the responsibility of the General Contractor and referred to the general regulatory framework<sup>147</sup>. In how far these commitments are really realized remains in question. As the Azovintex Director of the L'viv stadium, Ihor Semyonov says, these issues (as well as CSR-policies) are elaborated on the top (which is in the headquarters of Mariupol'). Here the most important is the construction process<sup>148</sup>.

In order to control and coordinate the preparations for EURO-2012 specialized departments were established under the Oblast and City Councils. Similarly, in L'viv the directorate on the construction of the stadium was integrated into the Department. In spite the fact, that the construction of the stadium is financed from the state and municipal budgets Directorate's tasks include only general supervision and monitoring of works. Health and safety issues, as well the implementation of the labour legislation is assigned to the health and safety committee and labour inspection<sup>149</sup>. For the technical supervision a body of two persons was positioned at the construction site. They inform on the regular visits of the labour inspectors once a month who do some corrections to the construction process<sup>150</sup>.

### **Azovintex**

General Contractor of the L'viv stadium is the native projecting-construction enterprise Azovintex which is based in the Eastern region of Ukraine in Mariupol'. As a result of the expansion business strategy enterprise currently has 6 subsidiaries across Ukraine, and several building materials producing plants, including the production of concrete. According to the company<sup>151</sup>, Azovintex is a socially responsible enterprise and treats "the development

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<sup>147</sup> Interview with Roman Cherkas, the Vice-Director for the stadium construction attached to the Department on Euro-2012 of the L'viv City Council, L'viv, 19 August 2009.

<sup>148</sup> Conversation with Ihor Semyonov, Azovintex Director of the L'viv stadium construction site, L'viv, 19 August 2009.

<sup>149</sup> The same source.

<sup>150</sup> Interview with the technical supervisors at the L'viv construction site, L'viv, 19 August 2009.

<sup>151</sup> "Проектно-строительное предприятие «Азовинтэкс» (Мариуполь), подвело итоги своей деятельности в 2008 г." (The projecting-construction enterprise "Azovintex" reported on the results of its activities in 2008), Azovintex web-site, available at <http://www.azovintex.com/index8.htm>, last access on 23 September 2009.

of the partner-like relationships with employees, society and the state as one of the important factors of its activities”<sup>152</sup>. Employing around 3,000 employees, Azovintex reports the average 12% increase in wages in 2008 (in comparison to 2007). In nominal terms wages amounted to 3,309 UAH (equivalent of 280 Eur), but decreased once crisis hits the Ukrainian economy down to 1,700 UAH<sup>153</sup>. At the same time, Azovintex seems to promote the CSR concept in its business strategy while enhancing charity (financial contributions amounted to 2,480 thousand UAH) to the city and state in place of IR<sup>154</sup>. Since 2007 the company has been unionized.

### ***Company background***

Azovintex is a newly established, genuinely private (in comparison to private enterprises organized on the basis of the former state enterprises) enterprise (established in 2006). It was established as an additional firm of the huge company CJSC Azovstal'sroy<sup>155</sup> integrated in the structure of the one of the biggest industrial-financial groups, the Industrial Union of Donbass<sup>156</sup>. The owner of the Azovintex is also at the same time the President of the Supervisory Board of Azovstal'sroy<sup>157</sup>. The same owner, the same founder.

Azovintex consolidated different single small assembly and building organizations, so that a sort of mobile trust emerged<sup>158</sup>. The consolidation of small corporate firms specializing on different types of works gave Azovintex an advantage in comparison to other construction companies, so that its demand for subcontractors is going to be quite small<sup>159</sup>. As at the point of time the company was established they had capital and they could have also attracted skilled workers (as the state enterprises paid low wages)<sup>160</sup>. Currently, they build the stadium in L'viv jointly with Azovstal'sroy<sup>161</sup>

### ***At the construction site***

At the point of time this research was conducted (August 2009), the construction works at the stadium just started. Then around 90 people were employed who prepared a concrete

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<sup>152</sup> The same source, translated by Lyudmyla Volynets.

<sup>153</sup> Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>154</sup> The same source.

<sup>155</sup> Azovstal'sroy is the former state building and assembly enterprise that was established back in 1940 for the construction of the industrial premises in the Southern Ukraine.

<sup>156</sup> Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>157</sup> Agency for the development of the equity market infrastructure, available at <http://www.smida.gov.ua/emitents/year/?id=47804&did=53>, last access on 23 September 2009.

<sup>158</sup> Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>159</sup> Conversation with Ihor Semyonov, Azovintex Director of the L'viv stadium construction site, L'viv, 19 August 2009.

<sup>160</sup> Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>161</sup> Azovintex, news-releases, dated of 25 April 2009, available at <http://www.azovintex.com/index8.htm>, last access on 23 September 2009.

basement of the future stadium. According to the Vice-Director for the stadium construction of the L'viv City Council, Roman Cherkas, local employees were employed for low-skilled jobs (e.g. drivers). At the same time, skilled workers were brought from Mariupol'<sup>162</sup>. Then workers had only one shift to work, with the probability to introduce two working shifts soon. The increase in the employment (250 persons) was also expected, even though by the end of the year the company expected to have around 1000 workers on the site<sup>163</sup>. However, it was not clear, whether those would be local or Mariupol' construction workers to be employed. According to the announcement placed by Azovintex in the local newspaper, it looked among native people for cleaners, office workers, and electricians but none of skilled workers<sup>164</sup>.

Skilled workers were brought by the company from their origin city of Mariupol'. Workers from the origin city of Atovintex were employed officially and had a record in the work-book, which is, they received a degree of social protection set by the law. They were accommodated in the nearby hotel "which could only be called as a hotel"<sup>165</sup>, they received three times a day warm food<sup>166</sup> and worked in two weeks shifts. With per diems paid they earned around 2,000 – 2,500 UAH<sup>167</sup>, quite little for this region, according to the technical supervisors. At the same time, as Ponomarchuk notes, due to the crisis and in comparison to the previous year average wages in the Donetsk region declined down to 1700 UAH<sup>168</sup>.

As the scarce supervision of labour standards would obviously not be as effective, and Roman Cherkas spoke about "the compliance on demand"<sup>169</sup>, trade unions could be another instrument to ensure workers' rights are obeyed. In particular, there are prospects of the cooperation with the technical supervisors and the Directorate for the stadium construction. Nevertheless, such approach have not seemed fruitful and functional, due to the common perception trade unions are in their first stages of formation<sup>170</sup> and remain almost invisible. Prevalently, trade union conditionality is still associated with the state companies only<sup>171</sup>.

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<sup>162</sup> <sup>162</sup> Interview with Roman Cherkas, the Vice-Director for the stadium construction attached to the Department on Euro-2012 of the L'viv City Council, L'viv, 19 August 2009.

<sup>163</sup> «Азовінтекс» прийняв на роботу перших львів'ян., (Azovintex employed first L'viv workers", Lviv, news-release, dated of 16 December 2008, available at <http://lviv.mycityua.com/news/lviv/2008/12/16/101119.html>, last access 17 August 2009.

<sup>164</sup> «Азовінтекс» запрошує львівських будівельників до спорудження стадіону" (Azovintex invites L'viv construction workers to the stadium site), L'vivs'ky portal, news-release, dated of 24 November 2009.

<sup>165</sup> The same source.

<sup>166</sup> Interview with Roman Cherkas, the Vice-Director for the stadium construction attached to the Department on Euro-2012 of the L'viv City Council, L'viv, 19 August 2009.

<sup>167</sup> Interview with the technical supervisors at the L'viv construction site, L'viv, 19 August 2009.

<sup>168</sup> Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>169</sup> Interview with Roman Cherkas, the Vice-Director for the stadium construction attached to the Department on Euro-2012 of the L'viv City Council, L'viv, 19 August 2009.

<sup>170</sup> The same source.

<sup>171</sup> The same source.

## **Trade unions within its external environment<sup>172</sup>**

The Regional Committee of trade unions to which the Azovintex union is affiliated, is in the East, in Donetsk. It has been quite pro-active in terms of organizing, even though not always successful. Whereas unions were successful in organizing some new enterprises (including the General Contractor of the L'viv stadium Azovintext), unions' attempts to organize workers failed in some enterprises (e.g. Al'tkom). Like in the case of the Kharkiv Committee of trade unions, the failures at organizing across the Donetsk region, as Ponomarchuk explains, were accounted to employers' attitudes towards unions. For example, Al'tkom employer did not want the union and so, created numerous obstacles to its establishment. Newcomers to the enterprise had simultaneously to sign the notice of voluntary termination of their employment relation without the date being placed on the notice. As the Vice-President of the Donetsk Oblast Council comments, there are employers "with the social face", and there are those, that are not so friendly to the unions<sup>173</sup>.

In the recent years trade unions in the Donetsk region had to struggle hard with the harsh economic conditions. It was beaten hard by the lack of jobs, and the lack of investments due to the political situation in Ukraine. The opportunities originating from the law were huge. "But the only law that works in Ukraine is the law on the change in the summer and winter time" Whereas it created good grounds for union work, and developed good relationship with the city and oblast authorities (and Lukyanchenko, the mayor of Donetsk is a former union member), the union yet could not solve the problem of jobs.

*"If workplaces exist, and wages is paid, it is easier for me to convene people to join the union... Small enterprises can be organized once big are. If no work and no wages, we will not be able to convene workers to join..."*

It is the major obstacle to the union revitalization, explains Ponomarchuk. It is only the improvement of the economic situation that will result in the revitalization. "We cannot offer anything at the moment ... As of today I can offer words only".

In this light, the opportunities from Euro-2012 are believed to be huge. As the Vice-President of the Donetsk Oblast Committee of the CBMIWUU stresses, they concern the issues of infrastructure development, and with it – the creation of workplaces and the improvement of the economic situation. However, neither organizing down the existing subcontracting chains,

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<sup>172</sup> Unless others specified, this section is based on the interview with the S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.

<sup>173</sup> He cites the examples of Heidelberg Cement Group, Lafarge, and those of the cement plants in Amvrosiyevka, Kryvy Rih, and Dniprodzerzhyn'sk as responsible employers providing good social conditions and continue to employ people. Some of them, e.g. Heidelberg Cement plant even pay better than the others. The average wages amounted to over 4800 UAH, told Ponomarchuk. Interview with S.Ponomarchuk, the Vice-President of the Donetsk Oblast Council of the CBMIWUU, Donetsk, 22 August 2009.



nor the extension of union structures to the different sorts of employment relationships is perceived as possible. Whereas in case of the formers, strong unions are needed in order to pressure down the supply chain, in the case of the latter - innovative forms of trade unions (e.g. organizing informal economy or migrants) are not likely to bring about the revitalization of trade unions in the region. As Ponomarchuk comments, new private enterprises are too small so that they cannot be organized. A similar understanding is shared also by the President of the L'viv Committee of the CBMIWUU, Sofia Chunis. Earlier in the phone conversations she claimed the impossibility of the organizing small enterprises in the region, even though they kept mushrooming, and unions remained traditionally present in state and former state-owned enterprises for housing construction. at the background of union's traditional presence in the core, (state design institutes, state companies for housing construction), private firms mostly hire people quite spontaneously for certain projects only (basically seasonal employment). Many companies are really small, employing frequently just five workers or so. The fact of the fixed-term employment, hence, is believed to prevent any union organizing activities<sup>174</sup>.

As re-confirmed by Ponomarchuk, the majority of workers at these firms work on the principles of "shabashniki", which is, informally.

*"They will not join us themselves. Why? How should I protect them, If they agree themselves on all conditions that violate all labour laws, and wages in envelops. If small enterprises work in line with law, pay all taxes, they would not survive"*

In addition, people agree themselves in advance for working conditions undermining their rights, e.g. informal work or wages in envelops. Then the union can hardly protect them, in the view of Ponomarchuk.

### ***The prospects of collective action***

Any protest activities were not seen as possible and would be considered as political given the positioning of the region in political terms in Ukraine. First of all, this is due to the overlapping of politics and economics in Ukraine. If strikes take place, they could be assigned the political nature at the background of the controversies between the current Prime-Minister and the political party originating from the region, the Party of the Regions. At the same time, according to the law, prior to the strikes and in order to make strikes legal labour disputes should be initiated. This requirement and the procedure postpone the strike for another 3-4 months until all stages of the conciliation procedure are gone through. But

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<sup>174</sup> Phone conversation with Sofia Mykhaylivna Chunis, the President of the L'viv Oblast Committee of Construction and Construction Materials Workers' Unions, 30.03.2009.

even the promise of employer to comply with workers' and unions' demands is already enough to delay the conciliation.

### ***Organizing initiatives***

The success of union organizing depends more on employer, as the approach to organize pre-supposes that union acquires the approval of the employer to convene workers' meeting and organize. As Ponomarchuk explains, such approaches are preconditioned by the focus of union activities on collective bargaining. The core of union activities is collective agreement at the enterprise, which comprises benefits, contains the provisions on additional vacations, health and safety issues, recreation, and so on. In this sense it does not change much if only a couple of employees establish a union. On the other hand, individual approaches are also less effective in the view people do not want to overtake the responsibility, which is a big weakness of Ukraine that can be traced at different levels. Workers accept wages in envelopes and refuse to join the union unless some problems arise. It is only then, that that they have nothing else to lose, they appeal to the union.

In view of the past unions' experiences with socialism, organizing remains the issue to be learnt by unions in Ukraine. Many remain committed to such employer-permissive approach to organizing and continue to just target employers and ask for permission to found the unions, or send letters with appeals. In such a context, the capitalization of the public procurement instruments is limited to those state or former state owned companies where unions have existed from the beginning.

### ***Inter-union cooperation***

According to Ponomarchuk, the Donetsk Council of the CBMIWUU cooperates with the L'viv Oblast Committee of the CBMIWUU, however, there is no need to share work and competencies. This is because the major share of membership dues stays with the local union organization, and workers' complaints are to be referred to their enterprise unions as well. In this way, in case of an accident, for example, local (L'viv) health and safety office would overtake investigation jointly with the President of the Azovintex trade union committee or representative.

According to the President of the L'viv Oblast Committee of the Building and Construction Materials Workers' Union, Sofia Chunis<sup>175</sup> the involvement of the company from another region poses some problems to unions' activities. Whereas Azovintex workers arrived in

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<sup>175</sup> Phone conversation with Sofia Mykhaylivna Chunis, the President of the Lviv Oblast Committee of Construction and Construction Materials Workers' Unions, 30.03.2009.

L'viv to work on the project, it is, in the view of L'viv unions, in the competency of the Donetsk Oblast Committee of Trade Unions to deal with those workers as unions' dues are paid in Donetsk and not to the L'viv unions<sup>176</sup>. Not clear is, to whom exactly should local employees then address their concerns.

## **Conclusion**

In contrast to the previous case study of the stadium in Kharkiv, this case study further revealed some specific needs of union revitalization. As the current economic situation is claimed to be decisive for the prospects of organizing, unions yet fail to recognize the benefits of targeting unorganized in different employment relationships, including in small enterprises. Their further failures also go back to employers' anti-union attitudes towards trade unions (e.g. the example of Al'tkom demonstrated). But the unions themselves continue to pursue employer-permissive organizing approaches. Hence, the case study also identified the room for re-considering the current organizing approaches and to think again about the retreat from gaining employers' permission to organize towards more pro-active, and pro-worker oriented organizing techniques. Not least, unions should emphasize activities aimed at increasing workers' awareness of union's role and their consciousness. Certainly, many think about the union post-factum, once they already face some work-related problems. It is here, where union could consolidate their education and informational activities in order to increase its organizing successes and effectiveness before the situation aggravates. There is also more room for re-thinking the nature (and to tighten) horizontal intra-union relationships, so, the issues of inter-union work and cooperation.

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<sup>176</sup> The same source.

## ORGANIZING AT THE NSK “OLIMPIYSKY”: MAJOR LESSONS TO LEARN

The public procurement process for the reconstruction of the stadium in Kyiv has been similarly to the L'viv case inconsistent. Here the tender for the reconstruction of the stadium “Olimpiys'ky” was initially allocated to a Taiwanese company, Archasia<sup>177</sup> but later on withdrawn. As the Ministry of Family, Youth, and Sports Affairs explained, the company was unable to provide necessary permits and documentation<sup>178</sup>. Later on the Ministry signed the tender agreement for projecting the reconstruction with the German design company GMP. By means of one-participant procedure on 28 November 2008 the general contracting tender was allocated to a huge Ukrainian holding company (HK) “Kyivmis'kbud”. As of 24 December, around 60 further agreements for different works relating to the reconstruction of the stadium were concluded<sup>179</sup>. Yet, on 19 May 2009 an ad hoc commission was going to prove the enforcement of legal pre-conditions in this tender process, and as showed below, the public procurement was criticized for misuse of public funds.

For the reconstruction of the NSK Olimpiys'ky around 100 organizations are likely to be involved. With this number the subcontracting chain looks more complicated if compared to Kharkiv and L'viv cases. Whereas in both cities the subcontracting chain is more or less visible due to the lower number of subcontractors, that is not the case at the NSK Olimpiys'ky. In addition, it is a mixture of different types of different companies (e.g. newly established, privatized, private), which poses certain implications for unions' approaches, addressing the revitalization issues, and organizing, in particular. In parallel with this sort of obstacles, there are also certain benefits. For example, the majority of Kyivmis'kbud affiliates are organized. The centralized management structure of HK Kyivmis'kbud and its relationships with affiliates and subcontractors (see a respective section below) facilitates the model of pressuring “non-responsible” companies through the top company HK Kyivmis'kbud for the implementation of decent labour standards down the supply chain. It was, however, not clear, in how far would be trade unions of Kyivmis'kbud open to such approaches. Many affiliates employ several thousand workers, which offers additional benefits for the union activities.

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<sup>177</sup> “Конкурс на реконструкцію НСК «Олімпійський» виграли тайванці” (Taiwanese company won the competition for the reconstruction of the NSK “Olimpiysky”, Unian news agency, dated of 15.04.08, available at <http://www.unian.net/ukr/news/news-246539.html>, last access 15.05.2009.

<sup>178</sup> Monitoring of preparations for Euro-2012 of the President's secretariat available at [http://www.kmu.gov.ua/sport/control/uk/publish/article?art\\_id=96858&cat\\_id=96855](http://www.kmu.gov.ua/sport/control/uk/publish/article?art_id=96858&cat_id=96855), last access 15.05.2009.

<sup>179</sup> “Держава забезпечує повне та вчасне фінансування робіт з реконструкції НСК “Олімпійський” у 2008 році” (The state provides funds for the reconstruction works at NSK “Olimpiysky” completely and on time in 2008), news-release of the Ministry of Family, Youth, and Sport Affairs of Ukraine, dated of 26.12.2008, available at [http://www.kmu.gov.ua/sport/control/uk/publish/article?art\\_id=100378&cat\\_id=96366](http://www.kmu.gov.ua/sport/control/uk/publish/article?art_id=100378&cat_id=96366), last access 15.05.2009.

## Kyivmis'kbud profile

Initially the company was established in 1955 as the Chief Managing Department of the civil and house construction under the Kyiv City Council. Then it united specialized big enterprises of the city of Kyiv, and in 1992 – 1995 the company was re-structured into holding company Kyivmis'kbud as it is known today<sup>180</sup>. Currently, 80% of its shares are owned by the Kyiv community even though it remains unclear, who exactly its shareholders are. It is a major real estates operator and developer on the current Ukrainian market. As of today the holding company Kyivmis'kbud unites 97 construction enterprises employing over 40 000 workers<sup>181</sup>. Among them are 40 OJSC, in which Kyivmis'bud possesses 26-30% of shares, 6 subsidiaries (mostly non-construction), and 51 associated members<sup>182</sup>.

The structure of the HK contains not only construction and design facilities, but also enterprises manufacturing and producing construction materials. At the current stage of research it was not quite clear in how far are the financial relationships between the HK and its enterprises are centralized. As the trade union President of one of the HK enterprises – housing construction enterprise DBK-4 informed, all profits are transferred to the HK, for, only 5-6% of the profits remain at the DBK-4. It raises some implications for potential wages increases for DBK, in particular, as regards the target level of enterprise activities.

Traditionally, Kyivmis'kbud has retained a broad social program. It promotes the welfare of its employees, has health insurance (based on the contributions by employers), established its own medical centre. Beyond that the company is also engaged in recreation and cultural activities for its employees, sport and cultural competitions, charity, and care for parentless children<sup>183</sup>. Workers of the HK Kyivmis'kbud are organized into several trade unions, for none of them was available at the point of research. Together with the Kyiv City Union Council they, however, recently disaffiliated from the sectoral CBMIWUU<sup>184</sup>. As one of HK Kyivmis'kbud headquarters employees explained, the withdrawal was due to the fact, that unions did not see any benefits of its membership with the CBMIWUU<sup>185</sup>.

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<sup>180</sup> „Company history“, Kyivmis'kbud web-site, available at <http://www.kyivmiskbud.ua/rus/history.php>, last access on 23 September 2009.

<sup>181</sup> „Structure“, Kyivmis'kbud web-site, available at <http://www.kyivmiskbud.ua/rus/structure.php>, last access on 23 September 2009.

<sup>182</sup> The same source.

<sup>183</sup> „Соціальна програма“ (Social program), Kyivmis'kbud web-page, available at <http://www.kyivmiskbud.ua/ukr/socprog.php>, last access on 22 September 2009.

<sup>184</sup> Interview with Vasyly Andreyev, the Vice-President of the CBMIWUU, Kyiv, 26 August 2009.

<sup>185</sup> Conversation with the workers of the investment department of the HKKyivmis'kbud, Kyiv, 28 September 2009.

## ***Kyivmis'kbud and subcontractors***

According to the Chief Engineer of the HK Kyivmis'kbud Olexandr Galyts'ky, around 1000 workers are working on the construction site of the Kyiv stadium. Around 23 construction organizations are represented here. On the peak of construction Galyts'ky expects around 100 subcontracting organizations to be involved in works<sup>186</sup>. Further HK affiliates that could be identified during the visit to the site included KyivElektroMontazh (26% shares are owned by HK, established in 1958, re-registered in 1995<sup>187</sup>), DBK-4 (20 employees are involved at NSK Olimpiys'ky out of 1000 employees in total employed by the company), LLL KyivMis'kBud-5 (owned by Mis'kZhytloBud, 272 employees<sup>188</sup>). Another contractor, LLL Solstroy was appointed as the Chief Contractor to de-montage of the lower level of the stadium<sup>189</sup>. In 1998 the company was established as an associated member of the HK Kyivmis'kbud, and a part of the underground construction company "Osnova-Solsif"<sup>190</sup>. Later on, the company split off from Osnova-Solsif, and in 2004, the company was renamed into Solstroy as it is known today<sup>191</sup>. The company is also unionized. Companies Geodeza and TekhBudMekhanika (dismantlement and recycling, established in 2004)<sup>192</sup> seemed to be included into the Solstroy's subcontracting chain.

HK Kyivmis'kbud established a corporate standard of its work principles and health and safety standards, whose monitoring is embedded into overall highly hierarchical structure of the HK. According to the Chief Engineer of the company, Olexandr Galyts'ky due to this system of supervision of health and safety standards the traumatism at their construction sites fell down<sup>193</sup>. However, as he noted, a construction site is "a living organism", which means, machines and people are moving there.

Compliance of subcontractors with the corporate standards of the JS HK Kyivmis'kbud is ensured through the long tradition of their cooperation with Kyivmis'kbud. The company involves few subcontractors from outside only, for, the majority of them are companies with whom the holding has worked for years. An additional instrument to enforce compliance is

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<sup>186</sup> Interview with the Chief Engineer of the JS HK Kyivmis'kbud, Olexandr Galyts'ky, Kyiv, 28 September 2009.

<sup>187</sup> "Yearly report 2008" submitted by the company to the Agency for the development of the equity infrastructure, available at <http://www.smida.gov.ua/emitents/year/?id=40560&did=29>, last access 19 September, 2009.

<sup>188</sup> "Yearly report 2008" submitted by the company to the Agency for the development of the equity infrastructure, available at [http://www.smida.gov.ua/emitents/owners\\_zvit.php?id=33341484](http://www.smida.gov.ua/emitents/owners_zvit.php?id=33341484), last access on 19 September 2009.

<sup>189</sup> Solstroy was not available for the interview during the field research in August 2009.

<sup>190</sup> „Высококласное строительство“ (High-quality construction), Construction and Reconstruction, news dated of 13 November 2008, available at <http://www.stroy-ua.net/novosty-stroykompleksa/vysokoklassnoe-stroytelstvo.html>, last access on 19 September 2009.

<sup>191</sup> „История предприятия“ (Enterprise history), Solstroy web-page, available at <http://solstroy.com.ua/ru/about/history/>, last access on 19 September 2009.

<sup>192</sup> „Несколько Слов О Компании“ (A Couple Of Words About The Company), Tekhbudmekhanika web-site, available at <http://www.tbm.com.ua/about.html>, last access on 19 September 2009.

<sup>193</sup> Interview with the Chief Engineer of the JS HK Kyivmis'kbud, Olexandr Galyts'ky, Kyiv, 28 September 2009.

the membership of the Chief engineer Olexandr Galyts'ky in the licensing committee issues licenses for construction, as well as other approvals and certificates. It gives him also additional influence as regards subcontractors. But most importantly is to mention the highly centralized management system Kyivmis'kbud seems to practice. The implementation of health and safety standards is monitored through the labour and social protection department, as well as by company "mobile patrols". Once any violations are identified, the order to improve the violations is further channelled to the health and safety officer of the given division of the company, and by him – to the chief constructor. Then the information on the improvement is channelled back to the top. In the view of such centralized management system, and unlike Kharkiv and L'viv, there open up additional opportunities for trade unions in Kyiv to ensure the implementation of workers' rights down the supply chain.

### ***Labour laws and wages***

The background and the current positioning of the companies involved into the reconstruction of the stadium in Kyiv have been known for their adherence to the labour law. As one of the affiliated of the Kyivmis'kbud, DBK-4 also demonstrates the companies also seem to pay good wages. In the pre-crisis month workers earned around 8,000 UAH (wages funds amounted to 9 Mil. UAH), for, wages fall down to 2,000 UAH after the crisis hit (wages funds declined to 2-3 Mil. UAH). Compared to this, construction workers at the NSK Olimpiys'ky earned around 2000 from the very beginning of works. Interestingly, as the results of the visit to the construction site revealed (see subsection "From the construction site"), the wages of workers involved into public procurement contracts are lower than those of not publicly procured. The issue of wages has constantly come up at the NSK Olimpiys'ky in public. According to the Chief Engineer of the HK Kyivmis'kbud Olexandr Galyts'ky, the calculation of wages at the NSK Olimpiys'k differed from the general principles of wages calculation within the company, even though he did not explain<sup>194</sup>. Wages of these workers seemed to be coupled to the calculations made by the government and the Ministry of youth, Family and Sport, as the Ministry recently justified minimum wages for these workers caused by the need to economize on the preparations to Euro-2012.

*"Workers earn the minimum wage - 2300 hryvnya a month (near 230 euro<sup>195</sup>) - that is a level of salary, that was set according to public authorities official calculation. Anyway there still are questions about increased pay for overtime hours, as well as for work on weekends and holidays - but we can't pay more. Public funds should be used as economically as possible"<sup>196</sup>.*

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<sup>194</sup> Interview with the Chief Engineer of the JS HK Kyivmis'kbud, Olexandr Galyts'ky, Kyiv, 28 September 2009.

<sup>195</sup> This falls down to slightly under 200 Eur as the Ukrainian currency lost its value under the effects of the financial and economic crisis.

<sup>196</sup> „Minister: "We pay workers minimum wage here at Kiev stadium reconstruction site", BWI, news-release, dated of 15 July 2009, available at <http://www.bwint.org/default.asp?index=2359&Language=EN>, last access 18 September 2009.

Yet earlier, he stated, that the state would not work with the subcontractor that have wages delays<sup>197</sup>.

The reliability of such position on the part of the state remains debated. According to the State Chief Labour Inspector of Ukraine, Sumovs'ky, most frequent violations that were identified during the audits at NSK Olimpiys'ky concerned the payment of wages, and their payment on time. Whereas some companies did not pay wages at least twice a month, as the law anticipates, the others have wages delay. Among them the audits identified such companies involved into the reconstruction of the stadium as OJSC Elektromontazh, Ukrenergobud, Kyivmis'kbud, Ekobud, Kyiivmis'kbud Trest-2<sup>198</sup>.

The case of NSK Olimpiys'ky demonstrated a rather selective compliance with labour laws. In addition, it revealed how the re-construction of the stadium proceeded on workers' cost, as they could have earned more on the other sites. Whereas many workers claim they were satisfied with working conditions, official employment, and the package of social and welfare benefits at their disposal, almost all of them complaint about wages as eth next subsection shows.

### ***Visit to the site***<sup>199</sup>

“We work here unpaid”, says Volodymyr, an employee of the department of cranes at the NSK Olimpiys'ky. For wages of 2000 UAH one can hardly ensure own subsistence, not to speak about family and household. He and his colleagues are in the trade union, but “it doesn't bring anything”, they say. Many workers remain in the union customary, as if from times of Bryezhnyev. They used to receive vouchers for recreation, however, during the crisis even such benefits were provided any longer.

Workers coming from the neighbouring villages of the Cherkasy province, however, do not complain that much. So far, they have not faced any wages delays, none within the seven years Sergiy and Mykhaylo have worked here. They get the pre-payment on the 10<sup>th</sup> of every month, are accommodated in the dormitory, in which even warm water is available. “Of course, it is not a European style of living”, they comment. In their department (Solstroy) the

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<sup>197</sup> „Ukraine Minister: “The state doesn't work with contractors, who allow detaining of worker's salary”, BWI, news-release, dated of 10 July 2009, available at <http://www.bwint.org/default.asp?index=2349&Language=EN>, last access 18 September 2009.

<sup>198</sup> Interview with the State Chief Labour Inspector V.Sumovs'ky, Kyiv, 27 August 2009

<sup>199</sup> This subsection is based on the conversations that were hold with the workers directly on the construction site. All names were intentionally changed.



majority of workers are from the neighbourhood, as Kyiv dwellers do not work for this amount of money, say Sergiy and Mykhaylo.

The other employee of Solstroy, installing electric wires, has not been paid for over three months. He is reluctant to talk at all. The company lawyer ensured that all employees are paid without delays, and was quite aggressive to hear that their workers complained<sup>200</sup>.

Where yet other workers seemed to pay less attention to their working conditions, they accept 12 hours-shifts, with overtime (from the ninth hour) being unpaid. Their sick leaves would be covered, as will vacations, and if nothing happens they will receive the premium for exceeding the planned volumes of work without accidents. But at the end of the day it does not matter, as they are paid 2000 UAH anyway. That is the situation of a group of other workers working with metalware (and presumably employed by Solstroy). They do not know about trade unions, but they receive some free recreation vouchers (for 24 days for himself, or 12 days with the family).

Viktor and his colleagues work for a firm Geodeza, a subcontractor of Solstroy. He conducts land surveying together with 4 workers employed directly at Solstroy. At his firm he does not receive paid sick leaves, and is sent on unpaid leave once there is no work. No overtime is paid as well. With these working conditions they still earn 2,000 UAH; "this is comparatively little", they say. However, they were sceptical about expressing their voice and asking for more: "It is not possible in our country [Ukraine]. Our voice does not count here".

As these examples demonstrate, workers restrain their demands the lower the wages are. Wages become the core of workers' concerns, something, one (maybe, unions) could obviously sensitize them on active union membership. However, as workers' expressions demonstrate, they are not really aware of the real benefits of being in the union that go beyond recreation and holidays, and which can be possible through union membership. This observation can be generalized for the bulk of the enterprises, and almost all workers, who critically lack the knowledge on the opportunities of collective representation of their voice. In the view of the fact, that the construction works and services are publicly procured, that the Kyivmis'khub retained traditional paternalistic approaches to IR, and has a share of control over its affiliates and subcontractors, and that the NSK Olimpiys'ky is the core stadium for Euro-2012 (as the final game is likely to take place here), a lot of opportunities were outlined for the CBMIWUU here. Opportunities, that were, maybe, still too little considered by the unions.

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<sup>200</sup> A phone call of a lawyer of Solstroy, 4 September 2009.

***Intra-union relationships: rank-and-file work at the DBK-4, subsidiary of the Kyivmis'kbud<sup>201</sup>***

At the example of the local union organization at the enterprise Housing Construction Combine DBK-4 an attempt was made to trace the CBMIWUU intra-union relationships, and positioning of the local union leaders within the current system of IR. Additionally, the possibilities for union activities along the subcontracting chain were investigated. Initially the enterprise researched was privatized by its labour collective. On the demands of the union workers received over 50% of shares, which were later on, bought out by managers of the company. The enterprise builds housing from the pre-fabricated construction blocks that are produced by its own concrete goods plant. Around 1000 workers (150 engineers and 850 workers) are employed here, for almost all of them are union members. Only 15 workers left the trade union, obviously, as they were not satisfied with its work or saw obligations of the trade union as unfulfilled. Once crisis started construction volumes decreased at almost 50% and workers had to be sent on unpaid administrative leaves. Yet, at other construction sites works could be continued.

Joint Stock Company (JSC) DBK-4 is able to conduct almost the whole cycle of construction works, and so, it needs only a very small number of subcontractors for specialized works (e.g. the installation of electric wires and sanitary facilities). Approximately 7 subcontractors are needed for the construction of one apartment block. These subcontractors are normally chosen as based on their affiliation with the HK Kyivmis'kbud and are not an issue for the trade union committee. As the President of the Trade Union Committee says, "workers' rights are not an issue in the choice of subcontractors... We are not interested in the workers of subcontractors".

As it could be identified from the interview with the President of the trade union committee, they have still practiced an old-style IR model including the collaborative relationships with the company management. "We cannot fight against own administration", says Krychkevych, in arguing, that such mode of work could damage the enterprise. And the enterprise administration does not want an open conflict with the union and workers. Much is done by means of the implicit informal understanding between the both. Officially, wages coefficient set by the collective agreement are kept low, and the union does not see a room for an increase in this coefficient. But workers were paid high on managers' deliberation. However, even though workers were paid quite well in the pre-crisis time (around 8000 UAH), their

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<sup>201</sup> Unless specified others, this section refers to the interview with the President of the DBK-4 trade union committee, Krychkevych, Kyiv, 27 August 2009.

wages declined once crisis hit the economy to 2000 UAH. As elsewhere known in Ukraine, the responsibility for the level of pay was rather assigned to the government and top level politics, and not to a concrete employer. “While those on top are governing there will be no order in the country”. Here one finds a common pattern of the displacement of responsibilities away from employer.

The style of management remains paternalistic. The management transfers around 1 Mil. UAH for holidays and recreation vouchers (according to the collective agreement), and additionally, 0,3% of wages funds for the organization of cultural activities by the union. Whereas in spite of crisis wages declined, the 0,3% still could be regularly transferred. Workers receive additional benefits, like 14<sup>th</sup> wages (while going on pension), paid holidays, and “white” wages.

While acknowledging the benefits of such management styles for workers, their provision cannot be replaced by the managements’ understanding and traditions, and is, indeed, normally, the competency and achievement of the union. This does not seem the case at DBK-4. At the point of research, the union was “artificially maintained” – through the provision of sick leaves and social insurance benefits, as many workers do not know it is not the competency of the trade unions, but the one of social insurance funds. But at the moment, the union was not strong enough to offer more, and struggled for its survival.

Given the inspirations of local unions to modernize, certain obstacles referring to the intra-union vertical relationships are still significant. Partly, they originate from a degree of isolation of such local leaders, as Krychkevych is, from the upper-level structures of union activities, which undermines unions’ power at the enterprise. “If we have local problems, we can rely only on ourselves”, say the union President. Kyiv City Council of trade unions focuses on the issues of children recreation, but not on workers’ concerns. Trade union leaders are getting older, at the time, when trade unions changes and successes are dependent here, more than elsewhere, on the local leadership. “There is a strong need for changes within trade unions”, he confirms.

The complexities of the internal situation of the CBMIWUU make the revitalization not easy and a very challenging task demanding a lot of commitment, resources, debates and changes in attitudes. There is a danger to waste all of them unless the situation is not treated strategically and with scrutiny. Whereas a lot remains to be discussed, and yet more importantly, done, the CBMIWUU could have also demonstrated first successes, to which the next subsection also turns.

### ***Organizing successes at NSK Olimpiys'ky<sup>202</sup>***

The current subsection demonstrates the first successes in organizing that could be achieved in the framework of the campaign “Euro-2012: Campaign for Decent Work”. Written by the Vice-President of the newly established trade union at the central football field of Euro-2012 in Ukraine – National Sport Complex Olimpiys'ky, the subsection demonstrates what motivated its workers to unite, and how the overall process proceeded. This case fits into the problem-target approach taken by the CBMIWUU, as current problems at the enterprise became the reason for the establishment of the unions. Hence, it was translated as it was written in order not to lose the specifics of the perception of the direct participants of this project.

“Our team is quite small: almost 150 high-skilled workers, including engineers, designers, construction quality supervisors, and alike. Our major task for the upcoming years is to ensure that the central stadium of Ukraine is being built quickly, qualitatively, and economically.

Unfortunately, the responsibility and significance of our work does not mean we have an easy work, and our working conditions are enviable and admirable.

The story of our union organizations began with problems. We were paid with delays, but more importantly, we had a feeling we could lose our job, as our enterprise was under the liquidation threat. After the discussion with the colleagues we decided to unite. We had to unite into trade union to be able to fight for our rights.

By end of June 2009 we were done with the formal procedures, legalized our trade union with the justice agencies. We also appealed to the big all-Ukrainian building workers' union to assist us in the fight for our labour rights. I have to admit, it was a right choice – Construction and Building Materials Industry Workers' Union became a sort of platform and foothold for us, and thanks to them the situation at our enterprise started to change for better with every day.

We set a goal – to solve our wages-related problems, and to protect our workplaces. But how shall we achieve this goal? It was not that easy to overcome obstacles, and we saw the

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<sup>202</sup> This subsection is based on the article „Люди Защищают Свои Права И Создают Профсоюзы“ (People protect their rights and establish trade unions), by Grygory Andruk, the Vice-President of the trade union committee of the State Enterprise “National Sports Complex “Olimpiys'ky”. Translated by Lyudmyla Volynets.

obstacles at every step: what to do, how to influence the mind of the decision-makers at our enterprise?

We sent appeals and letters, with the help of our colleagues working in the trade union headquarters we had some talks with the heads of our Ministry, we demanded the attention to our problem by the Parliament, President, and Prime-Minister. Finally, at the general meeting of the labour collective we made a decision to inform on our problems the whole Ukrainian society through media.

The way was long, and I am not going to go into every detail of how we proceeded in order to defend ourselves. But it is worth of saying that now our life at work is getting better: the issue of wages delays and arrears was solved, the enterprise is no longer threatened to be shut down, we have a new director with whom we have developed a substantial dialogue, we continue to work, and to make use to our country.

And we defended ourselves with our own hands. And the most important is that we did it together. We fought together – and together we saw the results. I say it straightforward – it was the trade union that helped me and my comrades to achieve a concrete result!"

### **Conclusion**

The case of the NSK Olimpiys'ky demonstrated the strong embeddedness of the traditional elements of the IR in the current IR system and how the broader context specifics influence on IR. Whereas a certain degree of paternalism could be identified on the part of employers, this paternalism hardly concerned the level of workers earnings. In particular, in public procurement, official employment and social packages were provided, but the wages remained very low. The case of Olimpiys'ky also disclosed the urgent need for the consolidation of union activities at and between different levels of union work. As union local leadership recognizes that there is a need for changes within trade unions, they feel isolated from the upper union structures. The link between top and bottom level of union work is hardly established, which undermines the effectiveness and union potential successes, including in the run up to Euro-2012.

## **CBMIWUU's REVITALIZATION IN THE CONTEXT OF EURO-2012 REVISITED**

The next section goes back to the issues of union revitalization outlined in conceptual terms at the beginning of the research report. As the needs for both, consolidation and expansion of the unions were re-confirmed by the empirical evidence of this research, the section further the issues of the relevance to each, as well as those points for unions to consider in this direction.

### ***Consolidation***

Consolidation specifically concerns the need to strengthen the structures and relationships with affiliates and members that are already put in place. It related to both horizontal (between regional unions and between unions and members) and vertical (between the top and lower levels of union activities). As the empirical evidence demonstrated, there is an urgent need for union upper bodies and leadership to strengthen their interactions and intensify their input-exchanges with the lower-level union organizations. As also in the case of the CBMIWUU, the union structural reforms hardly went beyond the abundance of the principle of democratic centralism and hence, landed at the point of the decentralization and the allocation of more financial and activity freedom to local union organizations which currently is disconnected from the action of the top. Naturally, this has not, however, ensured a more effective re-definition of intra-levels union relationships within the CBMIWUU. As the top is hardly backed by the bottoms, local organizations, similarly, appear isolated in their bargaining position and especially in case of conflicts. At the background of workers' low consciousness of what unions actually are, and how to protect own rights local union leaders frequently find themselves in a weak position. The situation at the DBK-4 exemplified that.

In addition, the re-definition of the leaders-members relationships also implies the broadening of the leaderships' horizons and attitudes to the IR process, including in relation to who are *potential* members, how to organize, what is unions' role. As the (construction) sector re-structures so does the labour market in construction. But trade unions still remain quite traditional in their views of who their constituencies are, and traditionally remains represented in the core, but less in the non-core, and not represented at all in the periphery. Hence, consolidation process should also include a change in union ideas, and an effort to make trade unions accessible and attractive for different groups of workers. The development of leaders' commitment (through debate and education) that trade unionism should be extended to reach out different, including non-standard forms of employment, is also a part of such consolidation effort.

Lastly, in the view of workers' current expectation and approaches to trade unions the consolidation strategy should embrace the education of workers on the genuine functions of unions. It includes not only raising workers' awareness of what trade unions are, but should also address workers' passivity, facilitate workers' involvement into union work, their contribution and input to it. The individualization of workers through seeking survival by friends and family members implicate sensitizing workers on their rights and its protection through trade unions. As many workers at the Euro-2012 construction sites are organized, and even heard about trade unions or received vouchers, they would benefit from the educational initiatives of trade unions in order to retreat from their consumerist towards more pro-active attitudes.

### ***Expansion***

The second track of the revitalization strategy also originates from the centrality of workers-union relationships. The necessity of the union function framed as "organizing" arises out of their classical status as member organizations (Heery and Adler 2006). Across the countries the centrality of this function, as well as forms of organizing differs. In the Ukrainian case the establishment of the relationships with the *potential* members – organizing – should ensure the expansion of unions into the new forms of employment, and to new groups of workers. However, there is a need for a strategic approach to organizing, planning it carefully and with scrutiny with the considerations of the structural changes in the given sector. For example, the analysis of the Ukrainian labour market reveals new forms of employment, partly identified as atypical or non-standard. Civil-law contract-based, part-time employment or migrant labour spread more and more across the Ukrainian labour market and should urgently be addressed by unions.

The current institutional incentives in Ukraine appear as quite beneficial for unions' expansion, but under-utilized by them within the new segments. For example, the centralization of collective bargaining, legal procedures prohibiting employers' intervention with the union activities, and obliging employers to bargain and report on the implementation of collective agreements are conducive for union organizing in the construction in Ukraine. In particular, the legal requirement of the only three workers being enough to establish a new union organizations open up huge opportunities for unions. Leadership's commitment was also evident throughout the case studies. But the use of the employers-permissive organizing models could be re-considered in favour of the more pro-active organizing approaches. Whereas the CBMIWUU and its affiliates could seek to capitalize on the current opportunity structure (incl. Euro-2012) they could more strategically approach the planning and enforcement of their recruitment activities. Of significance is, as stressed by Heery and Adler

(2006) for organizing in general, their choices as regards the allocation of resources (commitment), targeting of activities (direction), and the methods in use (method). The case of organizing workers at NSK “Olimpiysky” provided one local example of the implementation of such strategic approach which could be extended also to other localities and communities. Organizing of workers at Azovintex is another example of such work that provided yet other lessons to be learnt. Given the consolidation of such experiences, and problem-centred organizing approaches (which the CBMIWUU have already practiced) union revitalization in the run up to Euro-2012 is likely to be more fruitful than just through advocacy and lobbying.



## CONCLUSION

Generally, in big sports events labour conditions and workers' welfare are often not given enough attention. It is, indeed, contradictory given the public exposure of the sport events, and that frequently, one of the main actors is the state, when procuring goods, work and services from its budget. It is first of all here, that public procurement could be seen as a starting point to achieve best value for money, not only by ensuring the best outcome in economic terms but also by setting social issues as a priority to be included in public contracts. As the case studies at stadiums in Ukraine demonstrated, this is not always the case, not to mention the opposite effects where state tries to economize on its expenditures on the cost of workers.

One can argue, the state cares already for workers' welfare while setting the regulatory and legal framework for the enforcement of labour rights. In this light, the majority of workers in Ukraine are covered by general labour legislation, enshrined in the Labour Code of Ukraine. However, poor enforcement mechanisms as well as a high level of informalization of the labour market further undermine the degree of workers' protection in Ukraine. This emphasizes the vital role of workers' participation in trade unions which are decisive for workers' protection. Given the problems identified here for the construction sector union CBMIWUU union revitalization strategy in the run up to Euro-2012 was hypothesized in terms of two tracks that should be pursued simultaneously – consolidation of unions and their expansion. In the view of membership declines (for, CBMIWUU unites around 30% of construction industry workers including students and pensioners, or only 20% of workers if further non-standard or atypical forms of employment included) organizing is detrimental to the union revitalization. Especially in the case of running up to Euro-2012 it acquires a political significance. It is not about big numbers and thousands of membership dues, it is about the revitalization of union organizing activities.

In the course towards union revitalization CBMIWUU faces different sorts of obstacles. External refer to the conditions within which unions operate (e.g. non-transparency and the lack of rule of law), legacies of the past (e.g. unions' image and sources and kind of membership, workers' non-awareness). They are complemented by union-internal obstacles (the problems of union governance and restructuring, views of leadership, and, in particular, inter-unions and union-members relationships). For, all of them came out of the generated empirical material. The identification of these obstacles stressed the need to consolidate unions at different levels – e.g. through the establishment of the cohesive union structure (in

particular, between different levels of unions work), and the re-definition of union-workers relationships (through education); through strategically addressing structural changes and labour market segmentation, as well as broadening the idea of unionism beyond the traditionally core segments.

In parallel with consolidating work, unions need to work out a sustainable approach to organizing which will ensure the prospects of organizing irrespective of employers' consent. The lack of experiences to recruit, frequently the lack of commitment (and so, resources), and the old-style approaches of conservative leaders of the trade union movement making organizing contingent on employers' will appear as major obstacles to organizing. At the same time, the analysis of the potential members should be broadened up in order to include also those segments of the market which are not really considered by the unions, but which are, however, growing. Hopefully, this piece of research will facilitate raising these issues with the Ukrainian unions and prompt respective discussion within the union on the levels of structure, strategy, and expansion.

## RECOMMENDATIONS FOR INCREASING UNION REPRESENTATION

### Tactics of union revitalization in Ukraine

- 1) Consolidation:
  - a. firstly, the education of members in terms of retreat from the consumerist to more conscious attitudes is required. This should necessarily be accompanied by the unions' efforts to generally increase workers' consciousness of their labour and economic rights, and of workers' knowledge of the legal instruments available for them in Ukraine to protect their labour and economic rights.
  - b. Secondly, tightening the interactions between the top and affiliated local organizations and facilitating affiliates' input to the top, should complement the consolidation tactics.
  - c. Thirdly, consolidation is not possible without the education of leaders and changing or rather broadening of their vision of unionism. Not least, it requires their understanding and the commitment to organizing and to new workers' groups.
  
- 2) Organizing:
  - a. strong commitment to organizing should include the respective allocation of resources.
  - b. In terms of direction (targeting activities) trade unions need follow and analyse the changes on the labour market of their respective industry.
  - c. They not only need to extend unionism to new non-standards forms of employment but also take the inter-enterprises links into account (e.g. subcontracting and supply chains).
  - d. Finally, in terms of method, they should abandon approaches to organizing through acquiring in advance employers' "permissive" attitudes. It is seen as more beneficial (even if more resources-consuming) to utilize individual approaches to workers, with the account of specific interest of for example, workers involved in organizing informal economy, micro and small enterprises or new private firms workers.
  - e. For this, they should also be ready to incorporate new forms of union organizations (e.g. networks).

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