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### Striking with tied hands: Strategies of labor interest representation in post-communist Romania and Ukraine

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## Chapter 3: A Theory of Labor Strategy

### 3.1. What Is Labor Interest Representation?

#### *Defining Labor Interest Representation*

The dissertation's main empirical and theoretical goal is the identification of circumstances under which labor representation can take place despite structural difficulties. The most important causal claim of the research is that even in difficult political and economic contexts trade unions can develop specific strategies that can lead to successful labor representation (i.e. that "strategy" makes labor representation possible). By combining several strategic elements, trade unions can defend the interests and rights of workers.

This chapter explains the theoretical rationale behind the dissertation's research question: How do trade unions ensure effective labor representation given several structural difficulties for labor? While Chapter 1 has focused on explaining the concept of structural difficulties, this chapter proceeds by introducing the concept of labor interest representation, the dissertation's dependent variable. It then moves on to describe what trade unions can do to ensure successful labor representation, and introduces the concept of strategy. The dissertation's aim is to take labor strategy apart and understand its constituting elements and whether and how these can bring about successful labor representation. For this reason, it first uses a game theoretical approach to develop several expectations about how structural difficulties affect the actions of trade unions. Second, it uses theory to identify the three strategy elements of shared situational definition, threat potential, and external support. Third, it constructs a set of propositions around strategy and strategy elements, which are presented in the chapter's third part and predict when and how strategy can bring about labor representation. Part four presents the research design and rationale for case selection.

Rather than labor weakness – the concept presented and criticized in the first chapter - this dissertation uses the concept of labor representation as its main dependent variable, arguing that this change in focus does a better job of capturing variation than labor weakness. I define labor representation as the *process* through which workers, usually acting collectively organized in a trade union, protect their interests in relation to employers and governmental authorities. (Throughout the dissertation I also use the term 'organized labor' and 'labor', by which I mean both workers and trade unions.) According to Claus Offe (1985), a trade union is a coalition of labor suppliers that tries to influence the labor exchange between workers and employers. The trade union does this by achieving a balance between the following three goals: wage level protection or increases, security of employment, and safety of working conditions. Labor must prioritize among these goals, as it is difficult to simultaneously maximize all three of them (Offe 1985: 10). I combine Offe's focus on what a trade union is and what its goals are with Richard Hyman's (1997: 310) definition of labor representation (Hyman uses the term "employee representation") as a concept combining three dimensions. The process of labor representation needs to be to some extent *autonomous* of management's interests and influence, *effective* - it should reach its goals or a combination thereof at least partly, and *legitimate* - these goals should be compatible with workers' initial demands (Hyman 1997).<sup>34</sup>

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<sup>34</sup> Hyman (1997) uses the term "efficient" rather than "effective" in describing the outcome-dimension of labor representation. I, however, follow Klanderman (1989) in using the term "effectiveness" as it relates to goal achievement while efficiency relates more to the satisfaction and cooperation of members (Gundelach 1989) or to the relation between goal achievement and resources used (Etzioni 1964).

By using “labor representation” instead of “labor weakness” as the dependent variable, I take issue with the concept of “labor weakness” as it favors outcomes over processes. Outcomes correspond only to the effectiveness dimension in Hyman’s conceptualization, while overlooking the two other dimensions, autonomy and legitimacy, themselves crucial tasks for labor in post-communist countries. Outcomes - for instance union density, collective bargaining coverage, wage increases - are inherently difficult to attribute to the agency of labor alone. By adding the dimensions of autonomy and legitimacy it becomes easier to determine whether specific outcomes – observable at the plant level, or observable through comparisons between different plants, such as higher wages, better employment protection and working conditions – can be attributed to the agency of trade unions or not. The interplay between the three dimensions of effectiveness, autonomy, and legitimacy is complex. Reaching legitimate goals might sometimes cost the union its autonomy, as management can try to take over the union organization. There is no single objective measure for any of these dimensions, as the process of labor interest representation has to be studied in relation to what can be achieved in a particular context.

In Hyman (1997) as in more classical sociology (Weber 1947) “autonomy” is a concept that refers to an organization – the “representation mechanism”, as Hyman calls it - rather than to the organization’s goals and outcomes of its actions. For Weber, an autonomous organization or group is one in which the “order governing the group has been established by its own members on their own authority”. It contrasts with what Weber calls “heteronomous” organizations, whose order “has been imposed by an outside agency” (Weber 1947: 148). Note that Weber’s definition is much more restrictive than Hyman’s: it studies the organization from its inception and considers that moment the determining one for making an organization autonomous or not. In Hyman’s account, “autonomy indicates the independence of a representation mechanism from the employer” (1997: 310). This formulation does not rule out the possibility that an organization can become autonomous even if it was not so at its inception. Indeed, in many of the cases presented in this dissertation, unions started contention episodes as organizations depending on the employer for their funds and even for keeping the plant unionized. Throughout the contention episodes, unions would develop into autonomous organizations under worker pressure, coming to act free from and in all the cases against the employer. This thesis uses a definition of autonomy that comes closest to Hyman’s definition above: a union (a “representation mechanism”) is autonomous when it is independent from the employer, when it is capable of following a course of action that is not imposed by an outside agency.

Legitimacy regards the demands formulated by a union and the outcomes it reaches via its actions. It is useful to turn to Scharpf’s (1970) distinction between input and output legitimacy to analyze some of the main contributions to legitimacy in the industrial relations literature. On the input side, legitimacy requires that the position of the union is informed by the needs of workers and that the union reaches such an informed position via dialogue with the workers. Offe and Wiesenthal (1980: 80) go as far as arguing that such dialogical action is the essence of the employee collective action, because a trade union will always depend, for the realization of its demands, on the degree to which it can mobilize workers (or credibly threaten to do so). On the output side, trade unions have to make sure that whatever they obtained for the workers via dialogical, autonomous, and effective action also is accepted by the workers. This separation between input and output legitimacy is analytically necessary because the moment  $T_0$  when *workers* and unions agree on a set of demands and the moment  $T_1$  when *employers* and unions agree on demands are successive, i.e. workers cannot know at moment  $T_0$  what unions and employers will agree on at moment  $T_1$ . For instance, one of the trade unions to be presented later could not convince the employer to decrease the workload, the core demand of workers. Despite obtaining instead a series of wage increases, workers could not deal with the workload anymore, and a large part of them left the enterprise (incidentally, that was also what the employer wanted), again increasing the workload for the workers staying behind and thus further pressuring the union to do something about the problem. The example shows that a union cannot achieve successful labor

representation without considerations of output legitimacy, without taking into consideration whether the outcomes of its actions are actually relevant for the workers in whose names they have been carried out. Indeed, Hyman (1997: 311) considers the output aspect of legitimacy the determining one: “[legitimacy] is gained and sustained by a record of ‘delivering the goods’, and is lost by a persistent (or sometimes a single) failure to deliver”. Hyman also draws our attention to the fact that establishing (output) legitimacy often does not rely on the exactness of the fit between worker demands and union-delivered “goods”. Often legitimacy can rely on “ideological resources”, on the union leadership’s “capacity to inform, explain and argue” (Hyman 1997: 311). But what is present in both accounts (Hyman’s and Offe and Wiesenthal’s) and is important for understanding the concept of labor representation as used throughout this thesis, is that the union has to be in dialogue with its members and show its members that either its actions or the outcomes of its actions, or both, correspond to worker demands or interests.

Same as legitimacy, effectiveness operates at the level of concrete worker demands rather than at the level of an entire organization (as in the case of autonomy). Effectiveness relates to a union’s actual fulfillment of concrete worker demands. Hyman defines the term more in terms of an organization’s attributes: effectiveness (“efficacy” in Hyman’s wording) “may be conceptualized partly in terms of organizational capacity: the ability to acquire relevant information (intelligence), to formulate policies coherently and dynamically (strategy), and to implement them appropriately (competence)” (Hyman 1998: 311). Although Hyman’s definition is useful, used as such in this study it would pose the threat of conceptually overlapping with the explanatory factors that are conceptualized further in this chapter in terms of strategy. In this study, I treat effectiveness not in terms of organizational capacity, but as an attribute of specific union actions and outcomes of actions aimed at the fulfillment of concrete worker demands.<sup>35</sup> The guiding question in establishing whether a union’s actions are effective is: Do union actions actually reach outcomes that correspond or approximate the goals the union set itself? (I discuss goal achievement further below).

All three dimensions are needed in order to argue that a “representation mechanism” such as a trade union has achieved labor representation. A union can be effective without autonomy and legitimacy: It can set its goals without any dialogue with members, and so low or in line with employer interests that it can easily achieve them. A union can be autonomous without effectiveness and legitimacy, but without legitimacy it is not really representing workers, so one cannot speak of labor representation. Third, a union cannot bring about labor representation only by being legitimate: even if its actions are informed by member demands and interests, it will not bring about labor representation if it fails to ensure the autonomy and effectiveness of its actions. Furthermore, combining two of the dimensions also does not ensure labor interest representation. Effectiveness and autonomy alone come closest to possibly bringing about labor interest representation, but without legitimacy (without pursuing demands relevant to workers) a union can again set its goals too low. Effectiveness and legitimacy without autonomy raises the question of how a union can ever be effective in pursuing legitimate demands (demands formulated in dialogue with workers) if its actions are imposed by an outside agency whose interests typically conflict at least in part with those of workers. Finally, legitimacy and autonomy in the absence of effectiveness are not enough to speak of labor interest representation since the very purpose of labor interest representation is not met. Whatever demands the union and workers formulate and whatever autonomous actions they carry out to fulfill those demands,

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<sup>35</sup> The reasons why I treat effectiveness as a characteristic of union actions and outcomes and not of unions are, first, the need to keep the dissertation’s central subject (labor interest representation) distinct from the explanatory factors identified further in this text. The second reason is that for reasons of comparability (trying to hold the actual demands of workers over which unions clash with employers constant to a certain extent) the unit of analysis of this study consists of contention episodes rather than entire trade union organizations (in the sense of studying unions over their entire lifespans). Furthermore, studying the organizational capacity of a union requires different theories and research design than the research question regarding the causes for successful labor representation guiding this dissertation.

such actions need to reach their aims at least partially in order to talk about labor interest representation. Of course, not any outcome will do: in order to talk of labor interest representation, the outcome must be relevant to or accepted by workers.

Summing up, labor interest representation requires all three ingredients. There is no representation without legitimacy. As Hyman (1997: 311) points out, legitimacy is basically what makes “representatives” “representative”, it is that which puts the “representation” into the concept of labor interest representation. Without autonomy, there is no “labor” in “labor interest representation”, as in the absence of a representation mechanism’s (a union’s) autonomy we would be speaking of other actors’ interest representation, but not of the *workers’* representation. Finally, legitimacy (in the sense of delivering the goods) requires effectiveness; the union needs to *reach* outcomes that are relevant for and accepted by workers.

### *Operationalizing successful labor representation*

Throughout the study I use the notion of *successful* trade unions to capture the phenomenon of unions that achieve labor representation. The issue of defining and operationalizing the success of collective action has received most attention in the literature on social movements. Most authors define success in a way that would come close only to the “efficiency”-dimension of Hyman’s labor representation concept (“effectiveness” in my formulation). Success refers to the extent to which an organization or “social movement” reaches its goals (on success as goal achievement see Gamson 1975, Johnston 1994, Ganz 2000, and for a review of the industrial relations literature on goal achievement see Frege 2002). But gauging the success of instances of collective action – such as organizations or social movements – in terms of goal achievement is a notoriously difficult task (Gamson 1968, Huberts 1989). The problem is that it is often difficult to establish whether goal achievement is an effect of collective action or whether it has other causes. Goal achievement can erroneously be attributed to the agency of organizations or social movements – the issue of “pseudosuccess” (Huberts 1989: 404). Conversely, defining success as goal achievement can also give rise to problems of “pseudofailure”, where “one cannot conclude that no influence has occurred simply by a failure to achieve a preferred outcome” (Gamson 1968: 66).

One could also add that organizations such as trade unions and other social movement organizations often set themselves goals that are far beyond what they can hope to achieve. Goals such as radical societal and political change often prove impossible to achieve, but this does not mean that social movement organizations fail to have any influence at all.

The industrial relations literature often approaches goal achievement as what a union achieves in terms of objective measures such as union density, collective bargaining coverage, and wage levels. This could be an appropriate approach when making between-country comparisons of trade unions in countries facing similar political and economic conditions. Yet when the focus is on the plant level, as in the case of this study, density and wage levels have to be gauged in terms of what is achievable in a given context. Without in-depth case-studies it is impossible to tell whether differences in wage levels between plants are the outcomes of differences in labor representation or of other factors.

A number of authors argue for supplementing understandings of success as goal achievement with additional measures, such as the capacity of a “social movement” to accumulate resources for the future (even in the absence of goal achievement, Klandermans 1989) and its capacity to influence other parties, such as state authorities, employers or publics (see Noort 1984 and Huberts 1989). Piven and Cloward (1979) have a different understanding of success than the goal-achievement perspective, defining success more in terms of the disruption and political reverberations that a “poor people’s movement” causes. Frege (2002: 59) rejects measures of goal achievement in favor of measures of the unions’ influence on management in her study of Hungarian and Slovenian industrial relations (measured as the union leaders’ self-perceived influence on management).

I argue for an understanding of success that uses the distinction between goal achievement and influence (a distinction introduced in Huberts 1989, see also Noort 1984: 29-32 for a discussion of measuring the “effects” of “social movements” on local government decision-making). Influence in these accounts refers to whether a “social movement organization” in some way affected the actions of other parties, such as states or employers. (One can easily recognize in this formulation a strong similarity to definitions of “power” in sociology and political science; for the purposes of this dissertation, it is not necessary to distinguish between power and influence. I will use the term influence rather than power since the literature on social movement theory cited above tends to use influence rather than power to approximate goal achievement)<sup>36</sup> Influence can mean that an organization such as a union only partly reached its goals, or that it got something in exchange for abandoning its initial goals. Process-tracing via fieldwork can show in each case whether unions had influence over management or authorities or not. In most cases this is not a difficult task: Wage raises or returns of wage arrears are an instance of labor representation when they are the result of negotiations between workers (mostly represented by unions) and employers, something that can be established via fieldwork. Another example of how events can be traced back to union action relates to government action; specifically, government action against employers usually follows after unions made public possible employer abuses at the plant.

### *Successful labor representation and contention episodes*

This study measures labor representation during so-called “episodes of contention” (McAdam/ Tarrow/ Tilly 2001) between labor and employer. First, the existence of episodes of contention might indicate that at least at certain moments the workers could establish the autonomy of their organizations (unions) vis-à-vis management (autonomy). Second, one can ask whether in such episodes of contention the disagreement between union and employer stems from some violation of workers’ rights or interests, and whether the union reacted to such violation in response to workers demands or pressure (legitimacy). Third, whether and how labor resolves an episode of contention gives a good approximation of labor’s ability to achieve labor representation (effectiveness). One could argue that studying episodes of contention biases the study by assuming that in all plants there is contention between management and union. I consider it difficult to define a union as a coalition of labor suppliers striving to influence the labor exchange (Offe 1985) without expecting some disagreement – and also contention – with the employer. In line with Polanyi (1957 [1944]) and Offe and Wiesenthal (1980: 70), I argue that employees and employers can have opposite interests in the labor exchange (arguing this, I do not exclude the possibility that the two sides might be in a relationship of mutual dependence and quite often collaborate towards achieving common goals). Conflict over interests happens because

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<sup>36</sup> The starting point for modern definitions of power in sociology and political science is Weber’s (1947: 152) definition: “Power (*Macht*) is the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests”. By far the most influential definition of power in political science (Schmidt 2004: 424), Weber’s formulation recasts power as an attribute of social relationships rather than as a cause for or force behind a specific outcome. The definition does not mention to what extent carrying out one’s own will despite resistance actually requires or might involve giving up parts of what constitutes one’s will (a possibility that the concept of influence does not exclude). But power in the Weberian accounts is distinct from other – stricter - forms of control such as *Herrschaft* (‘imperative control’ in Talcott Parson’s translation of Weber, see Weber 1947) and discipline. Both latter forms of control involve command and obeisance, something that the concept of power in the Weberian account does not necessarily involve (power is more encompassing than imperative control and discipline). Because it is not restricted to command and obeisance, power in the Weberian account comes close to the notion of influence used above. Furthermore (and confirming that it is possible not to distinguish between power and influence), there are authors in political science who either treat influence as a synonym of power (Dahl 1994), or define power as influence (power as “control or influence over the actions of others to promote one’s goals without their consent, against their ‘will’, or without their knowledge or understanding”, Buckley 1967: 186).

the employer cannot turn labor into a commodity, as labor cannot be separated from the employee that produces labor. Since the employee's welfare depends on increasing the price of labor, and since the employer's profits depend in part on decreasing the price of labor as a factor of production, some potential for conflict over the price of labor can always be expected.<sup>37</sup>

However, although some potential for conflict between employers and employees might be a characteristic of most workplaces, this does not apply also to relations between unions and employers, especially in the post-communist context. Given that many unions in post-communist Europe do not have their origins in 'coalitions of labor suppliers' but in communist state organizations intended to control the workplace (for a literature review see Herod 1998), one should expect to find plants that did not go through episodes of contention between *union* and employer. Whether there were episodes of contention between employer and *workers* is a different question. Although I did not select plants based on the criterion that contention was present there, fieldwork revealed such episodes - contention between workers and employers - in all eleven plants included in this study.

What differed from one case to the other is the way unions reacted to the conflict. It is precisely this reaction that helps establish to what extent a union is autonomous and legitimate, although determining whether a union is autonomous is easier than to establish its legitimacy. For establishing autonomy it is sufficient that during such episodes of contention the union takes a different position than the employer. For establishing whether a union's demands and outcomes of its actions are legitimate, I will use a wider array of indicators, like analyzing whether and why there was variation in worker participation in union actions, studying how unions formulate demands and the extent to which they involve members in the process (Borisov 1999), and the workers' reactions to the goods delivered by the unions. The combination of such indicators differs from case to case, depending on how much access I had to interview partners, archives, and personal observation.

#### *Main actors throughout this study*

Last, it is important to clarify who or what is the main actor in this dissertation. So far in the text I have used interchangeably concepts such as workers, trade unions, and labor. At certain points in this dissertation I will, however, distinguish between these concepts (workers and trade unions, with the term labor encompassing both workers and trade unions), depending on whether trade unions are autonomous or not (when a contention episode starts). I will use the term trade unions (instead of labor) to name the actor pursuing labor interest representation only when trade unions are already autonomous. I will use "workers" or "worker groups" when there is no autonomous trade union at the plant and it is therefore worker groups that take up tasks of labor interest representation. The argument for using this distinction between workers and trade unions is that trade unions cannot be treated as "representation mechanisms" of labor as long as they are not autonomous from management, and therefore cannot be expected to pursue labor interest representation. Instead, it is workers or groups of workers who take up tasks of labor interest representation. Trade unions are usually conceived in the social scientific literature as coalitions of labor suppliers (workers), but in the post-communist context there are many cases where former communist trade unions did not reform to open up their ranks and actions to "labor suppliers" (workers') presence and influence. Instead, many unions – one might say most of them in the post-Soviet context - remained organizations run by management-appointed (earlier: Communist Party-appointed) personnel, with little to no autonomy from management. Lack of reform towards autonomy was also the reason why international trade union organizations refused affiliation in the 1990s to the biggest labor federations in Russia and Ukraine (A3 2009). Because such unions are far from the unionism model where unions represent workers in their relationship to management (the labor suppliers coalition model), I will speak of workers and workers groups as the

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<sup>37</sup> I do not argue that profit motivations are the only factor explaining the actions of employers; for an overview of other factors see Kahancová 2007.

actors pursuing labor interest representation where trade unions are not autonomous. One of the main findings of the dissertation is that it is more difficult for Ukrainian “labor” than for Romanian “labor” (understood as comprising both workers and trade unions) to ensure labor interest representation. This is so because Romanian labor is more likely to already have achieved autonomy of trade unions. In contrast, in Ukraine, labor still faces the issue of trade union autonomy, as management kept its control over union funds and ranks and has the means to bring about distributive unionism. In the empirical chapters it will be shown that in contrast to the Romanian episodes of contention, in the Ukrainian ones labor first had to focus on autonomy *before* effectiveness (Romanian unions, already autonomous, could proceed to effectiveness directly).

To denominate un-reformed, non-autonomous, post-Soviet organizations I will use the concept of distributive trade unions, building on Clarke's (2005) distinction between directive and representative unions (see Chapter 1). Needless to say, it is not from these organizations that one should expect the pursuit of labor interest representation. This is because one can hardly imagine that a union can achieve success on both dimensions at the same time: effective resolution of worker demands requires autonomy beforehand, in order for a union to actually be capable of taking up worker demands. In contexts in which non-autonomous unions predominate, the pursuit of labor representation emerges among groups of workers, and sometimes take the form of attempting to reform the distributive trade union to make it autonomous, or, to use Clarke's terminology, representative (to be discussed in Chapters 5 and 7).<sup>38</sup>

## **3.2. Strategies of Labor Interest Representation**

### **3.2.1. Elements of Strategy**

How come that there are unions successfully defending workers interests given the structural difficulties with mobilizing workers, threatening employers, and breaking out of isolation sketched in Chapter 1? This dissertation answers this question in terms of labor strategy. It distinguishes between structural difficulties for labor - that are initially beyond its control - and *strategic elements* that determine the extent to which labor can mitigate the impact of structural difficulties. It identifies several strategic elements that unions pursue in effectively protecting workers' rights and living standards; it later uses these elements to formulate a set of propositions. It is argued that strategy makes the difference between the plants where effective labor representation was possible and the plants where unions failed to defend workers' interests (given similar contextual challenges). Strategy should mitigate the impact of post-communist unions' difficulties mobilizing, threatening, and breaking out of isolation.<sup>39</sup>

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<sup>38</sup> In other words, the tasks ahead of Ukrainian labor are more complicated and cover all three dimensions of labor interest representation, a key reason for taking this research to the Ukrainian context (for a detailed discussion of the country selection see section 3.2.).

<sup>39</sup> The focus of the dissertation is on strategies and less on “strategic capacity”, i.e. on the question how and why some unions are able to develop certain strategies while others are not (Ganz 2000). The reason why this chapter and the wider PhD project behind it mainly focus on strategies is that such work has not been previously carried out in Eastern Europe; before moving to issues of strategic capacity, one should have a clearer picture of what the building blocks of strategies are. Also, importing the findings on strategies of Western unions (and especially US unions that are more relevant since their struggle is similarly decentralized as in Eastern Europe) is not an option, given the more important resources - including their higher acceptance - that Western unions can still count on in their societies.

A strategy is a “succession of intertemporal decisions in which present action is evaluated in terms of its consequences for future goals” (Pizzorno 1978). In conceptualizing strategy employing the elements described below, the dissertation builds on an application of social movement theory to the field of Industrial Relations (Kelly 1998). Mobilization theory – as the application is called – tackles some key topics that the discipline of Industrial Relations and this dissertation share: “interest definition”, “formation of collectivism” (collective action), and “the acquisition of power resources” (Kelly 1998). This dissertation is concerned with mobilization-aspects and therefore specifically draws on mobilization theory in answering the questions how and when unions and workers agree over goals and actions and act together. It is also concerned with the outcomes of actions of workers or unions confronting employers, specifically in when and how such actions can be successful. Mobilization theory contributes to answering the question about the success of collective actions via the concept of political opportunity, the extent to which the “ruling class” is vulnerable to new demands, and the extent to which it limits the use of repression in response to the mobilizing group's demands.

Furthermore I use the theory of interdependent decisions of Thomas C. Schelling (1960) to show how strategies work in convincing the opponents of a group to accept that group's demands. Specifically, what is crucial for this research is Schelling's idea that what matters when actors - such as trade unions and employers - confront each other is not only the seriousness of the threat that one actor poses for the other, but the ability of the actor to communicate and enforce the threat.

The distinction between mobilization and outcomes of trade union action in conceptualizing trade union strategy comes close to Wiesenthal's (1996) categorization of trade union tasks along an internal-external axis. The dissertation uses the following internal/external distinction: On the one hand, it studies relations between trade unions and members and on the other hand their external relations to the government, the business group to which the state-owned enterprise (SOE) is being or has been sold, and the wider community (the town where the enterprise is located). The answers to the question “What specific strategies bring about labor representation?” rely on combining the three strategic elements discussed below: the shared definition of the situation, threat potential, and outside support.

a) *The shared definition of the situation.* In order for labor representation to be “autonomous of management's interests and influence” (according to the autonomy-dimension of labor representation in Hyman 1997), trade unions need a definition of the situation that enables them to act autonomously of management; this definition should allow the union to see its interests as different from those of management.

There also needs to be some agreement between at least parts of the workforce and the union leaders over this definition of the situation: the situational definition needs to be shared. The less agreement there is between leaders and workers (or among leaders) over this issue, the more the union has to find ways to accommodate internal opposition. Internal opposition might restrict the union's capacity to act, either by making its strike threats less credible (the more there is internal opposition to a union leadership, the less participation can be expected), or by endangering the unity of the trade union organization. Workers also need to find reasons to stay in a union and support (if not also participate in) its actions. How does a trade union justify its goals and actions to members, so that it keeps them loyal, especially over long periods of time and when the going gets tough, such as during long strikes (Scott 1991)? Under what conditions do workers keep supporting their union? Sometimes a union needs to translate the results of negotiations and actions into concrete benefits for members, and sometimes it is enough that workers perceive the union as autonomous of management. More importantly, workers and leaders have to share a definition of their situation that builds on some notion of collective identity introducing a distinction between “us” (workers) and “them” (managers and/or

owners).<sup>40</sup> Keeping workers organized and motivated, and membership numbers stable, ensures protest capacity and the unity of the trade union organization and raises the chance that demands will be heard.

One should not mistake the shared situational definition with worker mobilization, although the less there is agreement between leaders and workers, the less the union can rely on a mobilized workforce (Hyman 1994: 133). This is not to say that mobilization depends exclusively on whether or how people end up believing that they have a common interest. Social movement theory repeatedly makes the point that mobilization (participation in forms of collective action) requires more than just a notion of shared interests (Tilly 1978: 56) or the awareness of a perceived injustice; social identification, social attribution, cost-benefit-calculations, and beliefs about personal efficacy are other factors that share the burden of explaining mobilization (McAdam 1998). Therefore, the definition of the situation that a group is in should tackle these varied factors influencing workers' participation in forms of collective action. As we will see in the empirical part, certain situations that plants in post-communist countries end up in influence several of these factors; for example, situations of wage arrears coupled with beliefs that private owners are uninterested in production end up influencing cost-benefit calculations and uniting union bureaucracies, foremen and workers in the defense of their jobs.<sup>41</sup>

In this dissertation, the concept of a shared situational definition refers to workers and union leaders sharing roughly the same beliefs about employer intentions. The shared situational definition does not rule out disagreements between workers and union leaders over means to achieve goals; in fact, such disagreements are very likely, given the highly unequal distribution of action costs between workers and leaders caused by legal regulations. (For instance, it is union leaders that will get sued for the costs incurred from organizing an illegal strike or for procedural mistakes in the course of legalizing a strike.) Securing a shared situational definition means for a union that it can count on workers not necessarily for participating in its actions (over which there might be disagreement) but at least for supporting those actions by not leaving the union during contention episodes (something that would undermine a union's threat potential vis-à-vis the employer, see next point).

Even where unions can reach their goals without mobilizing workers (for instance by taking employers to court), the definition by the union leaders and by the workers of the plant's situation is - as an instance of organization of attention - a central process out of which decisions arise (Powell/DiMaggio 1991:19 and March/ Simon 1993 [1958]). This is particularly important in post-communist countries where we have seen that unions have difficulty mobilizing workers also because they act in a context where extracting rents from management to offer workers social benefits is a less costly and less risky strategy (ensuring the union bureaucracy's survival) than one relying on confrontation and threats to management. In other words, without a shared situational definition there might be not only no labor representation, but also no attempts to bring it about.

b) *Threat potential*. Even if a trade union relies on a mobilized constituency of workers, this does not mean that employers will automatically yield to the workers' or union's demands. We have seen in the

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<sup>40</sup> This does not mean that such a definition of the situation necessarily relies on some perceived fundamental difference of interests due to class positions. In many of the case studies presented in this dissertation, while ignoring many cases of worker rights violations and assisting management in disciplining workers, unions acted only when they believed management to be harming the plant. In other words, in these cases union leaders acted on an "us versus them" distinction that distinguished between the people of the plant - working there and depending on its survival - and alien owners with little interest in the plant's capacity to maintain jobs. On the importance of a shared notion of collective identity see March/Olsen 1989: 38, Offe/ Wiesenthal 1980, and especially Matza/ Wellman 1980.

<sup>41</sup> Social movement theory uses the concept of framing to show how social movements override mobilization problems; framing is defined to involve "the strategic creation and manipulation of *shared* understandings and interpretations of the world, its problems, and viable courses of action" (Campbell 2002: 9, my emphasis). The key word is "shared"; social movement theory argues that understandings are shared when they are framed in ways that resonate with the cultural backgrounds or beliefs of larger groups of potential supporters (Benford/ Snow 2000).

previous chapter that unions have difficulty posing threats to employers, and especially posing threats that rely on disrupting production. Is there any way that labor can pose threats to employers and create costs for the employer if the latter ignores it?

This dissertation uses a central insight from Thomas C. Schelling's game theoretical essay "A Reorientation of Game Theory" (Schelling 1960). Schelling redirects our attention from the actual damage that players can inflict upon each other to "structural elements" of games, such as most notably communication and enforcement, a guarantee that there will be a punishment or the capacity to carry out the threat. A threat means, in the words of Schelling, "that one asserts that he will do, in a contingency, what he would manifestly prefer not to do if the contingency occurred, the contingency being governed by the second party's behavior" (Schelling 1960: 123). Later Schelling argued that "threat is used to mean a commitment, or intended commitment, to a conditional act – conditioned on the performance or behavior of the object of the threat – that one would not ordinarily be motivated to carry out" (2001: 52). It is such conditional commitment that makes a threat and that distinguishes threats from warnings. In Schelling's theory (2006: 3), a warning refers to an "announcement that punishment will be forthcoming in the event of misbehavior, when that punishment, given the misbehavior, would be in the rational interest of the one making the announcement". Warnings involve punishments that follow misbehavior easily because the warning issuer has all the reasons for (and incurs little costs if) using that punishment. But sometimes the types of punishments involved by warnings are not easily available to issuers (I use here Schelling's terminology of threat or warning issuers and recipients). Instead, issuers only have available the types of punishments involved in threats, punishments that do not follow misbehavior easily, possibly because if carried out they harm both recipient and issuer. Punishments capable of hurting both parties raise issues of credibility: issuers need to credibly commit themselves to punishments, somehow signal to a recipient that punishment can be as swift as in the case of a warning. Commitment, communication, and enforcement are crucial for the credibility and effectiveness of a threat, and therefore represent contested terrain. Often players make ineffective threats because they cannot communicate them to recipients or because they cannot enforce them. Threats are difficult to communicate or enforce especially when communication and enforcement depend upon a third actor (such as the state in the case of this dissertation). Because punishment does not follow misbehavior as easily as in the case of a warning, recipients end up having a crucial incentive when confronted with threats to destroy communication and undermine enforcement, a behavior that constitutes a crucial difference between threats and warnings.<sup>42</sup> Commitment and the role of communication and enforcement for credible commitment represent areas of employers-unions struggle previously left unexplored in studies of post-communist labor.

The consequence for labor of transforming its struggles from struggles over the size of threats into struggles over communication and enforcement of threats is that it would have to act more as a

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<sup>42</sup> In the words of Schelling: "It is typically in the interest of both issuer and recipient that a warning be reliably issued and received. In contrast, it is not in the interest of the target of a threat that the threat be consummated, that is, that the (conditional) obligation be successfully incurred and communicated; and if it cannot be successfully communicated it cannot succeed and cannot serve a purpose" (Schelling 2006: 3). Schelling (1960: 123) offers the following example for clarifying the difference between threats and warnings: "In ordinary language, 'threat' is often used also for the case in which one merely points out to an adversary, or reminds him, that one would take action painful to the adversary if the latter fails to comply, it being clear that one would have incentive to do so. To 'threaten' to call the police on a trespasser is of this sort, the threat to shoot him is not. But it seems better to use a different word for these cases – I suggest 'warning' rather than 'threat' – because the 'threat' either is superfluous, and does not constitute a move, or it conveys true information and relates to situations with an information structure and communication structure worth keeping distinct. In this latter case it is a mutually beneficial move, precluding a jointly undesired outcome by including the second party's understanding." Schelling draws to our attention that a crucial difference between a warning and a threat in game-theoretical terms is that a warning does not constitute a move – the move may follow without actually depending on the warning. In contrast, a threat is a move, "the act of commitment is not included in communicating it" (*Ibid.*), and offers the recipient the possibility to respond to the threat by contesting and acting against the issuer's commitment to carry out a threat.

social movement than as an established, recognized member of the polity that can easily respond to misbehavior's with threats (Hyman 1994). That is, labor should launch political battles aimed to influence authorities to enforce legislation and guarantee communication channels between unions and employers or even larger campaigns to change legislation. As we will see, most of these political battles take the form of creating visibility around local authorities' record in enforcing legislation. The dissertation builds here on a theory of the state that perceives the state to have an interest both in reproducing capitalist structures and in seeking democratic legitimation (Offe 1973). In order to activate the state's interest in democratic legitimation, labor has to create visibility around the state's (lack of) actions to satisfy an important constituency (in this case workers). Labor can bring about the state's involvement only when it creates a stake in terms of popularity for state authorities to interfere in a given situation (Pizzorno 1978). The post-communist particularity of such situations is that political battles will rarely be fought at the national level; it is the workplace - and the plant-level - that under the condition of growing de-centralization of labor organizations become the places where labor can restore communication and enforcement of threats.

Under conditions of weak rule-of-law, labor generally faces high obstacles in ensuring the communication and enforcement of threats. Take the case of a union's threat to take an employer to court if the latter fails to pay wage arrears or implement a wage increase to the official industry branch-level minimum wage. The threat is empty if the union will win in court only years after it sued the employer, and the employer knows this. In the words of Schelling (1960: 132), in such a case "punishment cannot be guaranteed" and the union should look for an enforceable threat or fight to ensure enforcement.

The point on communication deserves special attention. Communicating threats or evidence that threats are enforceable (in Schelling's words, that the player is committed to carry threats out) is a crucial component of contention between unions and employers. In several cases studied in the dissertation's empirical part, employers refuse or block communication – usually by hiding the owner's identity – to make threats irrelevant. Unions break out of this situation sometimes by co-opting state officials to disclose the owners' identity; alternatively, unions can determine the division of tasks and responsibilities between management and owner, and then pressure management to do what is within its reach. In all cases restoring communication was enough to force employers to negotiate, especially in the cases where such communication was made visible to the public.

The term "potential" in "threat potential" refers to the *possibility* of the threat being carried out; in Schelling's (1960) non-zero-sum game theory most of the time opponents have little interest in actually carrying out threats due to the costs involved. Furthermore, sometimes it can be enough to communicate threats for opponents to reach an agreement. For instance, a union might have a reputation that it is conflict-prone and well-connected, a reputation that might deter the employer from acting unilaterally at the plant or taking actions upsetting the union. But other times disruptive threats will have to be carried out, and labor does make use of disruptive actions in the cases under study. What is important is that such disruptive actions are nevertheless preceded by threats, and it is already at the level of threatening that unions face tough choices (over *constituting* threats, discussed below) and management opposition to communicating and enforcing threats. I therefore use the concept of threat potential instead of disruption, as threatening logically precedes disruption and reveals that there is contention between labor and employers already before the start of disruptive actions. We will see that in all contention episodes during which trade unions took part in the contention episode on the side of workers, the union always addressed some threats to the employer, but did not always go as far as carrying out the threats and engaging in disruption (it either could do without it or was deterred from carrying out the threats). I prefer using the concept of threat potential instead of simply threat or disruption because I consider it to be more inclusive, containing the basis for both the idea of threatening and for the actual act of carrying threats out: credibly threatening also implies having the means to actually carry out a threat.

Building threat potential is a challenge on both the internal and the external dimensions of labor strategy. This is because a trade union can combine mobilizing members for demonstrations (which is a good sign of the potential to strike, of the commitment to the strike threat) with the threat of going to court, for which it might need connections and therefore outside support.

c) *Organizing support outside the plant.* Labor can hardly be successful in isolation. It has to involve the support of actors outside the plant that can pressure the trade union's opponent to accept workers' demands. If the trade union chooses to protest against the employer, it needs the support of actors that can ensure visibility of the protests and that also support protesting unions with various resources.

"Support" can range from the personal connections of trade union leaders to the formal affiliation of trade unions to one or the other labor federation. It might be based on formal contracts or on informal agreements, for instance about exchanging votes for political support. There are also different possible motivations for external actors to support a union, ranging from ideological to material. For instance, supporting actors can help the union because they share and uphold some common identity. The most typical examples is shared political identity, such as in the case of alliances between left-wing politicians and trade unions, or shared regional identity, leading to alliances against an employer coming from a different region or country. Political (votes) or economic interest (for instance, other companies that have lent money to a plant and now seek the return of debts) can also motivate politicians or even other companies to support labor.<sup>43</sup>

There are four types of possible sources of support (during contention episodes) one can think of on the basis of analyzing the environment surrounding a plant-level union: 1.) other unions, usually offering material support but often also sharing their connections; 2.) political actors, either civil servants or politicians, who can make it costly for the local authority or employer to ignore the union (basically they can ensure the enforcement of deals reached between union and employer); 3.) the local community (for instance the local press) that can contribute with material resources and most of all greatly and dramatically expand the visibility of a trade union's actions, restore communication with employers and help in mobilizing sympathizers; and 4.) institutional stakeholders (these are usually other companies, state- or private-owned, that play a role in an enterprise's privatization, usually by guaranteeing the deal).

Especially in the case of a conflict-oriented and militant trade union, visibility is crucial as a guarantee against local authorities' and employers' possible use of violence, but also for drawing in the active participation of the population. The union does not necessarily need support outside the plant to provoke visibility, especially in a small community (for instance, the union can turn to public hunger strikes as in one of the cases studied in this dissertation); yet allying with local actors such as the press or the church can greatly increase visibility and support.

In order to distinguish between different types of support, I will conceptualize these different types along a continuum: From the list of possible support types above, one can see that one aspect in which they differ is permanence, how permanent support sources are. Some of them, such as support from state authorities or politicians, can be seen as temporary sources of outside support. They do not last longer than a union can credibly threaten with or carry out visible disruption. Other support sources are more permanent, as they rely on formal affiliations, or on the degree of influence a plant-level union has in a wider branch- or national-level trade union structure. Depending on the issue over which labor is protesting, I argue that it is especially two sources of outside support (the extremes on the continuum) that a union needs to secure in order to ensure successful labor interest representation. First, if the issue is the return of a plant into state property or stopping asset-stripping at the plant, successful labor representation requires some sort of state intervention. Most often, the most

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<sup>43</sup> This part of the argument builds on the social movement theory of McAdam/ Tarrow/ Tilly (2001) and on Pizzorno's ideas on trade unions and political exchange (1978).

straightforward way of stopping an asset-stripping employer is disrupting the employer's property rights over a plant, usually via a factory occupation. This requires that state authorities at least refrain from protecting the employer's property rights, and at most that the state cancel the privatization agreement. Since success of labor actions over the fate of plants logically involves some sort of decision by the state, securing state support is a necessary condition for success. This kind of support is temporary, strongly connected to electoral cycles (unions are more likely to secure it around elections), and lasting only as long as there is explicit union action – visible demonstrations or even disruptive actions such as roadblocks - to secure it.

Another type of support, more permanent, might also be important. This time it does not directly matter for the resolution of contention, but for the capacity of a union to hold out during long contention episodes and also for communicating threats: wider labor support, from other plant-level unions or from branch- and national-level union organizations. Wider labor support means that a trade union involved in contention at the plant can count on other unions pooling their resources to support it or using their connections to politicians to bring about state support. This source of support, wider labor, is more permanent in nature, as it does not depend so much on electoral cycles but on the type of union organization (distributive versus representative) and degree of solidarity between unions.

The next sub-section discusses two ways in which trade unions can develop threat potential. I will argue in the Research Design section that the distinction below between two interaction modes is an important tool for ensuring variation in the case selection. The point of variation is to make sure that I capture all relevant strategy combinations that can lead to successful labor representation.

### **3.2.2. Modes of Interaction**

In combining the strategic elements above, trade unions usually follow one of the two following “modes of interaction” (Scharpf 1997): conciliatory or conflict-oriented. Remember the discussion in the previous chapter about the three structural difficulties that trade unions face in the post-communist context: the difficulty mobilizing workers, posing threats to employers, and breaking out of isolation. Confronted with these difficulties, most of the literature on post-communist labor expects plant-level trade unions to take a conciliatory approach towards management during episodes of contention. This means that they will not rely on tactics disrupting production (strikes) or property relations (factory occupations) at a plant to influence negotiations with the employer. Instead, they will threaten mostly by initiating lawsuits, or they will give up altogether the task of interfering in episodes of contention on the workers' side, preferring instead to distribute social benefits in order to offer workers some sort of incentive to stay in the union.<sup>44</sup> This latter possibility is extremely salient especially in post-Soviet countries such as Ukraine, where employer practices of offering workers social benefits to limit turnover or to replace wage increases is still largely present, due to the state's lacking capacity to offer these benefits – such as housing or access to health services – itself. The latter possibility – of providing workers with social benefits rather than protecting them during episodes of contention – in effect nullifies the prospects for labor representation and also makes strategy irrelevant, at least in terms of the three elements described above. Yet Chapter 2 also showed that despite being confronted with structural difficulties, there are nevertheless unions that do make use of disruptive tactics such as

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<sup>44</sup> The reader might find it surprising that I treat lawsuits as conciliatory actions. I consider lawsuits to be conciliatory to the extent that unions use lawsuits as an alternative to actions that disrupt production and that incur higher costs to the employer. A union that chooses to respond to violations of worker rights and interests with lawsuits rather than threats or actions of disrupting production signals to the employer that it has chosen a less disruptive response, and in that sense a lawsuit can be considered a conciliatory action.

strikes (and the empirical chapters will present also two cases of factory occupations). I use the term conflict-oriented interaction mode to describe unions making use of such disruptive tactics.

I expect unions to follow one or the other mode of interaction depending on worker pressure and employer actions, and specifically on whether the employer extends the union funds to be distributed as social benefits. (I develop this expectation by using game-theoretical tools in sub-section 3.2.4.; since social benefits play a role only in Ukraine, this means that in Romania the mode of interaction depends mainly on worker pressure.) When episodes of contention lead to rising worker pressure and the employer fails to offer social benefits – for any reason, e.g. due to declining profits or because it took over the plant without really being interested in production – unions do switch to disruptive tactics or risk being left by the workers (who might establish other unions). During contention episodes, unions making use of disruptive actions can achieve successful labor representation, if they make use of the three strategy elements presented above (shared situational definition, threat potential, outside support).

Summing up, depending on the mode of interaction – conciliatory or conflict-oriented – unions can take two roads to threat potential: If conciliatory, they can develop threat potential by threatening to sue the employer; if conflict-oriented, they can develop threat potential by threatening to disrupt production at the plant (striking) or by disrupting property relations (by occupying the plant). However, in the contexts where employers control union funds and ranks, unions do not even resort to the threat of suing the employer, and therefore nullify the prospects for labor interest representation, for which threat potential is a prerequisite (that threat potential is a prerequisite for successful labor representation is a hypothesis and it will be explored in Chapters 4 and 5).

The section on propositions below shows how the contextual feature of employer control over union funds and ranks limits the scope for successful labor representation and affects the relevance of the various strategy elements for successful labor representation. The next section presents a causal story of how unions combine various strategic elements to bring about labor representation.

### 3.2.3. How Does Strategy Work? The Causal Story

The story below is based on a hypothetical expectation about how the strategic elements relate to each other and combine to bring about effective labor representation. At the basis of this sub-section lies the idea of taking apart the concept of “threat”. What does it mean to pose a threat? As noted above, Schelling (1960) draws our attention to two “structural elements” of situations between individuals or groups that determine the credibility of a threat: communicating and enforcing a threat. I argue that there is one more element that again features two aspects: constituting a threat, a concept consisting of two different aspects. The first one refers to the process of *addressing* the threat, identifying the addressee of a threat. This is not as commonsensical as it sounds, nor is it an easy choice in the case of a union. In which situations should a union address a threat to the employer (owner and management), and in which situations should it differentiate between management and owner? Furthermore, unions often take struggles out of the plant in order to push the authorities to intervene on their side. In such situations, labor ends up threatening state authorities. This raises the question about when (in which situations) exactly to threaten the state, and concretely which organs (central government, local mayor, local governor – the government's representative). This is not just a question of finding the 'right' opponent, meaning the one that is also able to do something about a union's demands; it is also a question of mobilization tactics: Some opponents are better targets than others, also because their identity resonates with workers' perceptions.

The second aspect of constituting a threat refers to *calibrating* the threat, determining what exactly would pose a threat to the opponent: What is a meaningful threat given the addressee? Is the

threat of disrupting production equally important to management as it is to the owner? In which situations should a union abandon the strategy of threatening to disrupt production and instead threaten to disrupt property relations? And, as the focus of labor's efforts moves toward the state, what limits should labor set itself when threatening the state? These are all questions that the trade unions that will be presented in the empirical part have had to face. Similarly, questions also arose around the issues of enforcing and communicating threats, especially since in some situations there is a trade-off between the two, captured by the question of how to communicate a threat so as not to undermine its enforcement. These three elements of posing a threat – constituting, communicating, and enforcing threats – will underpin and structure the analysis of strategic elements in the empirical chapters.

Successful labor - usually represented by a trade union - *defines its situation* and that of the enterprise to present a danger to the interests of union members, and a necessity to act in order to counter that danger. A trade union also has to ensure that a significant part of the workers shares and approves that definition. A shared definition of the situation is particularly difficult to reach in contexts where trade unions might have acted too long as distributors of social benefits rather than as representatives of workers. In other words, the trade union's preference for distributing social benefits might have severed the dialogical links to workers that constitute the essence of collective action on the part of labor.

Second, a group of organized workers (a trade union) that has defined its situation as one in which it needs to act faces the challenge of building up a *threat potential*. Threat potential ensures that the employer takes labor seriously (accepts it to negotiations and partly accepts its demands). This potential is not limited to a credible ability to strike, especially if labor wants to avoid the shutdown of its enterprise, because in this case a strike would not make much sense; what is crucial here is constituting the actual threat – finding the addressee and calibrating the threat to the addressee. Labor might constitute a threat in court, by using law suits, or it might have a reputation of having the resources to effectively sue its opponent, if the latter refuses to negotiate. In order to have threat potential, a union also has to ensure that its threats are enforceable and communicable to the employer. As the empirical part of the dissertation will show, the employer's first step after receiving the demands of an organized group of workers is to hinder the workers or the union from communicating and enforcing their threats. The most obvious example of employers undermining the enforceability of threats is when workers threaten with a factory occupation and the employer responds by making sure that local authorities protect the plant from the workers. Even more rudimentary, employers can simply refuse any communication with the workers, thus rendering useless the very idea of threatening. Communication can be restored by public manifestations of labor's power or of a union's support among workers – for instance in the form of demonstrations or pickets. In other words, if confronted with an employer interested in production, a mobilized workforce can be enough to constitute, communicate and enforce a threat to the employer.

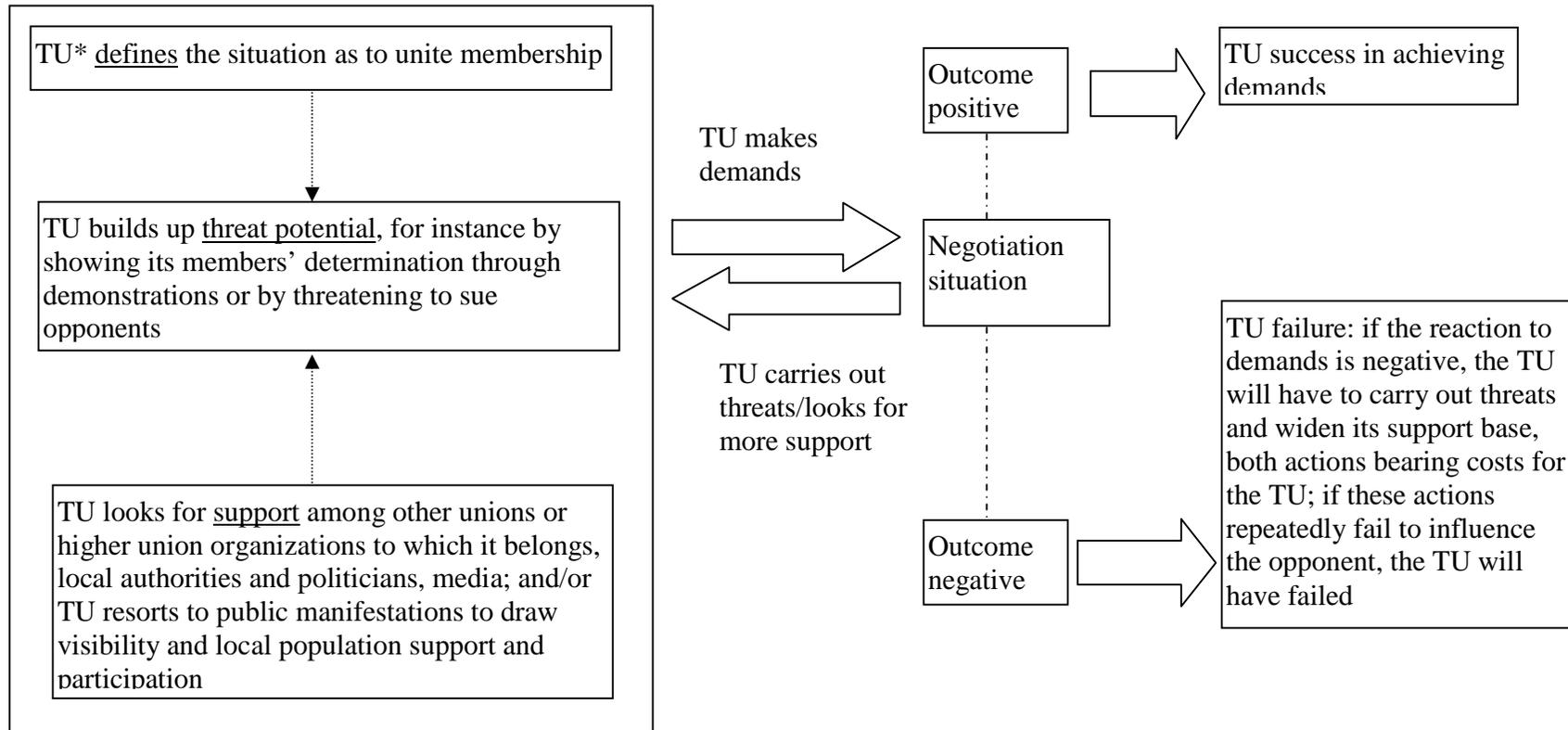
In contexts where the position of trade unions is insecure because the state fails to guarantee their right to exist, labor has fewer means to build up threat potential. For instance, the threat of going to court will sound empty if courts never issue decisions against the state or the employer. Therefore, labor needs to find sources of *support outside the plant* for negotiations or protests; actors outside the plant can help in many ways, from funding and supplying workers on strike to sharing connections to higher levels of political power, and thus enforcing and communicating threats.

These three elements (shared situational definition, threat potential, and outside support) are not static assets. They develop over time and in *interaction* between labor and opponent. When labor makes its demands, it often has only uncertain and partial information about the opponent's determination. It is therefore often uncertain about the actual amount of threat potential or the amount of support it needs for ensuring that its demands are accepted. If demands are not accepted from the outset, labor - usually represented by a trade union - will have to move back and forth between the negotiation situation, in which it faces the opponent, and its basis for being accepted to negotiations

(the threat potential and the sources for support). It revises at a cost both the threat potential (it increases it by partially carrying out threats) and the sources of outside support, by broadening and deepening them (for instance, via formal agreements). The figure below illustrates the main components of this causal story.

**Figure 3.1: How it works – the road to successful labor representation**

How it works – the road to successful labor representation; \*TU = trade union



### 3.2.4. Boundaries of Trade Union Action: A Game-Theoretical Analysis

Only few unions find the way to labor representation given the structural difficulties they face. Most unions tend to follow a conciliatory approach to episodes of contention, something that greatly limits their options. In this section I introduce a game-theoretical analysis, schematizing the story presented in the previous section as an interaction between two collective actors, the union and the employer. The point of the analysis is to introduce the study's set of propositions. The analysis starts from the idea that the extent to which the employer is interested in production is crucial for labor strategy. Employer interest in production influences not only whether trade unions can constitute threats, but also whether unions are capable of any autonomous action at all. This happens since in contexts with distributive trade unions, an employer will extend funds to the trade union to administer as social benefits and to keep it out of labor representation.

In situations when the employer is interested in production, workers and especially their unions tend to favor conciliatory strategies allowing them to reduce confrontation costs as much as possible. Workers and unions tend to avoid actions that disrupt production because of the high costs they entail, given the structural difficulties. Yet conciliatory approaches bear their risks for unions: Since conciliatory approaches do not rely on the mobilization of union members and communication with them, such approaches might alienate workers and encourage them to find alternatives to the union. (In other words, union leaders and members fail to share a common definition of the situation they are in.) Unions have to come up with solutions to address this “member alienation” cost; sometimes, employers create such solutions by extending unions benefits to administer and distribute to workers. However, if the benefits are too meager or if the employer does not offer any, workers will tend to look for alternatives to the conciliatory union.

But what happens in a situation of uncertainty over the employer's commitment to production at the plant? The literature on asset-stripping presented in Chapter 1 argues that especially in Romania and Ukraine many employers asset-stripped their enterprises rather than invested in production. At the moment when a plant is privatized, trade unions and workers know little about their new employer's intentions, whether the employer is interested in production or not. The two-level structure of the single-round game below tries to capture this fundamental uncertainty of unions after their plants have been privatized. It is an empirical finding that with the exception of one union in Ukraine, every single union in my sample faced this uncertainty. Five, two in Romania and three in Ukraine, still face it today. The game-theoretical analysis below aims to show that under conditions of uncertainty over employer interests, unions are better off advancing their goals through conciliatory strategies. However, when the probability that the employer is interested in production becomes very small, the union should opt for a conflict-oriented strategy.<sup>45</sup>

The main point that the game-theoretical analysis uncovers is that there is a situation that partly helps unions deal with the difficulty of mobilizing members, but at the same time makes it impossible to solve an episode of contention within the boundaries of the plant. This is a situation when plants end up in the hands of employers uninterested in production. This situation facilitates a process by which workers and unions come to share a definition of situation – since asset-stripping threatens everybody's job, and thus overcome labor's difficulty mobilizing workers. (Furthermore, if one thinks about the Ukrainian situation, then it is precisely a situation in which employers are asset-strippers that makes it impossible for the union to administer social benefits - the employer does not pay for them anymore –

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<sup>45</sup> In order to capture this uncertainty, the game below does not assume complete information. The union does not know whether the employer is interested in production or not, it does not “know” in which half of the game it actually is. I let an actor called Chance (C) make the move determining what kind of employer the union is facing. (Alternatively for Chance, game theorists also call this actor Nature; see Morrow 1994: 55).

and might even inadvertently make the union take up labor representation.) By overcoming this difficulty, unions gain more possibilities of posing threats to the employer, once they can rely on a mobilized workforce. In other words, the game theoretical analysis allows us to establish the sequence in which unions have to deal with the three structural difficulties, and how these difficulties are interrelated: Overcoming mobilization problems is crucial for establishing a basis for threat potential; and overcoming mobilization problems might depend on whether the union faces an asset-stripper, a situation that favors the emergence of a shared definition between workers and union; a mobilized workforce poses a threat to the employer only to the extent to which the union succeeds at taking the conflict out of the plant and breaking out of isolation (at the plant union and workers have little to threaten with, given that the employer is not interested in production). In brief, we should expect that most union-led worker protests will take place at plants taken over by asset-strippers; furthermore, such protest is successful only to the extent that conflict takes place also outside the plant.

*Game description*<sup>46</sup> (see figure 3.2 below)

The game begins with a chance move, with the role of depicting the union's uncertainty over employer intentions.  $\gamma$  is the probability that the employer is not interested in production. Structural difficulties for labor action represent common knowledge for both sides (union and employer). The game's upper part shows those outcomes where the employer is interested in production. The pay-off structure and the moves are common knowledge; however, at the beginning of the game the union does not know in which half of the game it is (I explain below when the union can overcome the uncertainty over employer intentions).

*Employer interested in production*

The union is the first player to move, deciding to change the status quo with which it is no longer content and playing *threaten* (and also formulates a set of demands). This happens as the union believes that employers infringe upon worker interests. The union also has the alternative not to protest against such infringements and stick to the status quo (Status Quo outcome). Sticking to the status quo will inevitably raise the question of worker discontent with this outcome; members force the union back to the protest path, or union leaders find some way to appease workers. Protesting takes the form of advancing some demands and threats in case the employer will not comply. The employer faces the option of *giving in* to these threats, a case in which it will have to make some concessions (outcome Concessions, and the game ends). In the post-Soviet contexts (such as Ukraine) employers can play a move that allows them both to prevent that the union carries out threats and at the same time allows employers not to make concessions on issues that infringe over worker interests. Employers might not want to let the union actually carry threats out, either because the union has a reputation of being able to disrupt production, or because the employer is among the few employers that do not want to risk disruptions (irrespective of the union's reputation). In this situation, the employer plays *extend benefits*, an action that specifically aims to divide workers and union. An employer extending benefits allows the union to perform traditional tasks of administering social benefits rather than representing workers. It is expected that the union takes the employer's offer, thus ending the game. Some workers will be unhappy with the outcome, but in case they will resort to collective action against the employer, they will have to do so in the absence of the union's support. I call this outcome the Distributive Unionism outcome: in exchange for giving up threatening, the union gets to administer social benefits. However, it does so at the cost of giving up the representation of workers, and giving up the issue which it was threatening about. Depending on how relevant that issue was to the workers, ending up in the Distributive Unionism situation comes for the union at the cost of certain membership discontent, noted as  $c_{members}$  in the payoffs for the union. If the employer offers to extend benefits to the union (something

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<sup>46</sup> Some terminology of moves and outcomes is taken from a deterrence game presented in Morrow 1994.

possible only in the Ukrainian cases), the union can interpret this as interest in production. However, the opposite situation does not follow: an employer that does not offer to extend benefits to a union cannot automatically be considered an asset-stripper. The employer might not offer to extend benefits because it does not find union threats credible (given that structural difficulties to labor action are common knowledge).

As labor weakness due to structural difficulties is common knowledge, the employer can ignore union threats if it finds them not credible. (The employer plays *ignore threat*.) The union can react by *backing down*, going for an outcome that is certainly favored by the employer, but not by union members (outcome Union Backdown). The union might also react by choosing conflict and carrying out some threats that rely on disrupting employer control over plant and production, by playing *disrupt*, but then it faces the high costs of such actions due to the structural difficulties to labor action (outcome Strike, a situation in which a union organizes disruptive actions against the employer at very high costs for the union, such as the possible relocation of the plant). Alternatively the union can go for a conciliatory approach, usually in the form of suing the employer and playing *sue*. Here the union builds up the means to pressure the employer without disrupting production (outcome “Lawsuit”); it is this outcome that the union favors most, since it cannot reach the Concessions-outcome in a single-round game. I will say more about the payoffs for each outcome below.

#### *Employer not interested in production*

The game’s lower part depicts the situation where the union faces an employer uninterested in production. The outcomes have the same names as in the upper part of the game, intending to show the uncertainty faced by union: outcomes look similar, but payoffs differ. Of course, it can be that the union overcomes uncertainty and somehow finds out in which half of the game it is. But this ‘move’-of a union overcoming uncertainty – is not covered in the game (I discuss how unions might overcome uncertainty in the sub-section on Information below).<sup>47</sup>

The union will move away from the status quo outcome (Status Quo\*, star symbols help identify outcomes in the lower part of the game), as it risks losing everything (it might have found out in which half of the game it is). Alternatively, even if the union does not have the information to push it to action against an asset-stripper, it might still choose to threaten: even if union leaders believe to be in the upper half of the game, the union might choose to leave the Status Quo and make threats to the employer over perceived infringements because it risks membership discontent with the Status Quo outcome. The employer prefers not granting any concessions (will avoid the Concessions\* outcome) to a union playing *threaten*. It is highly unlikely that union and employer will reach the Concessions\*-outcome: Since the structural difficulties to labor actions are common knowledge, the employer will play *ignore threat* believing that the union cannot carry out its threats and will later back down if the employer plays *ignore threat*.

The union can react by backing down, an outcome certainly favored by the employer, but not by the union. Backing down in front of an asset-stripper means a total defeat for the union. The union loses all of its members’ jobs at the plant without any compensation (the corresponding outcome of the union’s action to back down is Union Backdown\*). Alternatively to Union Backdown\*, the union can choose a conciliatory approach, where it avoids carrying out disruptive actions against the employer. Instead, it chooses to sue the employer and obstruct the employer’s asset-stripping actions in court (outcome Lawsuit\*). However, contrary to the situation in the upper part of the game, the logic of the lower game is close to zero-sum, as asset-stripping means a total loss to the workers (the loss of

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<sup>47</sup> The employer is not always an asset-stripper, i.e. an employer that took over a plant to make a profit only from selling its assets. In my sample unions face not only asset-strippers but also employers who have decided, after initial investment in production, to asset-strip plants because of the unstable political climate and a multinational that bought plants as part of “political packages” – where governments sold investors valuable enterprises only under the condition that they also buy “weaker” plants employing many workers.

their jobs). If the employer turns out to be an asset-stripper, the “Lawsuit\*” outcome can only postpone plant closure, and possibly gain workers the payment of wage arrears. Worse, given the long time that legal action takes, workers might receive the money only well after plant closure. Furthermore, suing cannot really solve the ownership problem (since it was not the union that sold the plant to the current employer, it cannot sue the employer over ownership issues). The Lawsuit\* outcome also comes at the cost of tensions between leaders and members: first, by postponing the acceptance of demands, second, by alienating members from the workings of union politics. (I noted this cost as  $c_{\text{members}}$  for the union payoff; the lawsuit itself might also cost the union money and time, a cost noted as  $c_{\text{state}}$ .) The employer gets a payoff of  $1 - c_{\text{state}}$  as the lawsuit will delay or limit the extent to which it can asset-strip the plant.

The union can also go for conflict. The reason why it can do so in the lower half of the game without facing all the costs implied by structural difficulties to labor action is that a high certainty of the employer being an asset-stripper lowers union costs of mobilizing members. By taking disruptive action, the union can actually reach such certainty, if it is in the lower half of the game: If a union chooses to disrupt production in a plant owned by an asset-stripper, it will find confirmation for its initial belief that the employer is not interested in production (the employer is indifferent to costs due to strikes). This can only raise the existing level of certainty among workers that the employer is an asset-stripper. Therefore, for high certainty over employer intentions a union should always play disrupt at this stage of the game and never *sue* or *back down*. The outcome of this move (*disrupt*), Strike\*, is the only one that can solve the problem from the union perspective by eliminating the risk of asset-stripping. This happens when the union pressures state authorities hard enough to get them to cancel the privatization contract and re-nationalize the plant; however, there is a cost to it, the cost of state intervention, noted  $c_{\text{state}}$  for the union pay-off. Strike\* comes at a cost as usually state authorities have their own interests when interfering to nationalize a plant – for instance, they can be interested in privatizing it to business interest groups close to the government (which might turn out to be asset-strippers) or, given that state authorities as a rule want to discourage workers from asking for plant re-nationalizations, they will protract episodes of contention as long as possible before finally re-nationalizing a plant.

### *Information*

The dotted lines in the model represent information sets of the union. At the first node the union cannot yet tell for sure what an employer’s moves mean in terms of the latter’s intentions. Because labor’s structural difficulties are common knowledge, an employer always resists initial threats in single-round games. However, the union cannot tell from the employer’s move to what extent the latter is interested in production, precisely because its leaders know that any employer (whether asset-stripper or not), will act similarly and ignore union threats (finding them not credible because of labor’s structural difficulties). In the few cases when employers extend benefits (corresponding to the Ukrainian unions in my sample), such actions usually mean that the employer is interested in production. Therefore, at the second information node important differences between Ukrainian and Romanian unions arise: Romanian unions face more uncertainty than Ukrainian ones, since in their contexts employers do not extend benefits and their moves do not contain information about commitment to production. Nevertheless, benefits provision is not of much help in reducing uncertainty even in the Ukrainian context: precisely because the structural difficulties are common knowledge and make union threats non-credible, unions cannot interpret the employer’s reluctance to extend benefits as evidence of asset-stripping.

Basically, the union can overcome the uncertainty over employer intentions only by relying on moves and information about the employer not captured in the game. For instance, a union can mobilize external supporters to find out more about the employer. Alternatively, it can threaten with disruptive and non-disruptive actions unless the employer does not allow access to relevant plant information (about the status of plant account, investment plans, or privatization contract). But

threatening at this stage might require a situational definition portraying the employer as an asset-stripper. It will be shown that in the empirical cases I studied and that I present in Chapters 4 and 5, the unions who took disruptive action against asset-strippers and ended up in the State Intervention outcome did so after intense internal struggles over situational definitions. In other words, the information gathered by unions about employers could rarely be interpreted unequivocally within the union and sparked internal conflicts between those believing to be facing an asset-stripper and the others. Whether such internal conflicts ended in time for the union to overcome uncertainty and act (play *threaten* and then *disrupt*) depended greatly on the availability of asset-stripping evidence and the warring faction's ability to convince workers to support one of them.

### *Payoffs*

The preferences over outcomes are empirically and theoretically-informed; so are the payoffs. They are  $P_U, P_E \in [-1,1]$ , where -1 means loosing the plant for both actors in the lower part of the game, and loosing one's place at the plant as a result of disruptive actions or of member discontent for the union in the upper part of the game. 1 is the payoff when the actors reach their goals (production or asset-stripping, respectively, for the employer; full satisfaction of worker interests for the union). For the Concessions-outcome (when the employer makes concessions), the payoff  $A$  for the union means that it imposed part of its demands (upper level of the game);  $A$  is lower than 1, since the union as a rule can only partly reach demands, because it usually has to bargain over them with the employer. The pay-off for the employer is  $1-A$  (where 1 is what the employer makes from production minus the size of the concessions,  $A$ ). The size of the concessions is bigger than what the employer would offer the union in terms of benefits. This is to capture the idea that the employer would, also for the strategic reasons outlined, prefer to extend benefits to making concessions whenever doing so is possible.

For the situation when the employer ignores the union and the union resorts to carrying out threats in the form of disrupting production, the payoff for the union is -1, as it loses its place at the plant due to the employer's power over union ranks (in Ukraine), or simply because such actions might trigger the employer's decision to move production to another plant (in Ukraine and Romania). The payoff 0 for the employer shows that the employer, too, faces costs in the case of the union's disruptive actions.

If the union sues the employer, the payoff  $1-c_{state}-c_{members}$  (1 minus state intervention costs minus members costs) for the union intends to show the high costs entailed by conciliatory actions: since such actions consist of taking the employer to court, there will always be a cost of state intervention – for instance, costs related to the duration of a process. Such costs can equal 1 for the union, nullifying the potential benefits. There is also a cost of member alienation or member discontent ( $c_{members}$ ), since workers will likely grow unhappy with the long duration of conciliatory actions and look for alternatives to the union.<sup>48</sup>

### *The equilibrium*

The equilibrium for the entire game is (*threaten, disrupt*:  $\gamma = 1$ , *sue*:  $\gamma < 1$ ; *ignore threats*), where  $\gamma$  is the probability that the employer is not interested in production,  $\gamma \in [0,1]$ . This means that the trade union plays *threaten*, and in the last move it plays *disrupt* only for a probability of 1 that the owner is not interested in production, and plays *sue* for a smaller probability; the employer plays *ignore threat* in the first round. The equilibrium captures the idea that in situations of uncertainty, unions are better off if they avoid disruptive actions. The union can risk disruption only in situations when it is sure that the employer will asset strip the plant.

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<sup>48</sup> In this game, I chose to model members and the state as institutional costs to union action and not as separate actors, as Shubik (1982) recommends for the sake of keeping the game simple.

Believing that unions are too weak to carry out strike threats, employers will not grant any concessions, and will resist the union. The employer always plays *ignore threat* in the single-round game, as it is interested in the *back down* result. An interesting implication is that if the employer can raise the uncertainty about its intentions, it can deter the union from playing a conflict-oriented strategy. Managing uncertainty can also give union leaders more control over their members. Depending on their interests, leaders can either spread rumors among workers that the employer is not interested in production, in order to mobilize workers more easily in the defense of their plant; or they can appease such rumors, in order to prevent violent protests in case these are deemed too risky. Empirically speaking, union leaders try by all means to reduce the uncertainty around the situation they are in.<sup>49</sup>

As said before, preferences over outcomes are empirically informed (i.e., the preferences come from what I know about my cases); there is at least one more reason (other than structural difficulties) for the strong preference of unions for conciliatory strategies. It is not only that the union faces high costs for disruptive actions; such costs are shared unequally within the union. Authorities will hold union *leaders* responsible for any loss or damage to private or public property; this generates for them an incentive to stay on the conciliatory path and try to convince members that this is the only feasible path.

The strength of the choice for the conciliatory approach also explains some structural difficulties that trade unions face. Conciliatory approaches appear to be responsible for the replication of decentralized and powerless union branch-level structures. Because unions, once they choose a conciliatory approach, always have to find ways to appease the workforce, they will do so by spending on members the strike funds and funds that could be used by upper union structures. Sometimes, as in Ukraine, this money does not even come from membership contributions, but from the employer's pockets in the form of collective agreement stipulations on social benefits, thus raising the dependence of workers on the employer even further. This argument finds confirmation among all unions in my sample, however to varying extents. Some unions construct their conciliatory approaches from the beginning to inflict costs on the employers, but costs that do not disrupt production.<sup>50</sup> Such cost-inflicting tactics are found among Romanian unions and rely on legal resources that are not available in the Ukrainian cases.

In later game-rounds (in later episodes of contention), in situations of employers interested in production, employers should no longer risk disruptions of production and extend unions social benefits, or in contexts where extending social benefits is not an available strategy, the employer can be expected to bargain over concessions. This possibility is, however, off the equilibrium-path, since the employer will always ignore union threats in the belief that the union will be deterred into backing down by the high costs entailed by disruptive actions. Nevertheless, as we will see in Chapter 4, there are employers that – instead of ignoring the union – do extend social benefits for the unions to administer, thus effectively preventing the union from threatening in later game-rounds. The explanation – why employers might use tactics other than ignoring the union – is that unions could solve the problem of structural difficulties during the first round of the game (present in the payoff of -1 for disruptive actions, the Strike outcome in the upper-part game) and effectively make disruptive threats. I will discuss in Chapter 6 how and why this happens, and what it means for the theory developed here.

Summing up, the main conclusion of the game theoretical analysis is that there is little labor interest representation to expect in situations where employers are interested in production: When

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<sup>49</sup> To use an insight from a study that focused on how a multinational company deals with uncertainty, the union leaders in this dissertation try to find “the situations under which uncertainty can be defeated by social interaction” (Kahancová 2007: 17).

<sup>50</sup> For strategies of inflicting costs, see Schelling 1984.

employers are interested in production, it is problematic for Ukrainian unions to become autonomous (the first dimension of labor interest representation), while for Romanian unions it is difficult to be effective (the third dimension of labor interest representation). Furthermore, if there is any labor interest representation, unions will bring it about via conciliatory strategies, but these will be lengthy and costly, possibly triggering member discontent with the lack of results (the union will have low output legitimacy, the second dimension of labor interest representation). In the situations where the employer is an asset-stripper, union and workers might reach a shared definition of the situation helping the union to overcome mobilization problems, but the union cannot effectively make use of the mobilized workers for disrupting production (as the employer is not interested in production). Therefore, the success of labor actions depends on state intervention and the capacity of the union to channel such intervention in its interest. The employer's intentions for the plant influence not only whether trade unions can constitute effective threats (unions can constitute threats, but the strike threat is ineffective), but also whether unions are capable of autonomous action; this happens because an employer interested in production can extend the union benefits to administer, thus relieving it from the task of representing worker interests.<sup>51</sup> Last, what makes the union's preference for conciliatory actions so strong is the uncertainty over the employer's intentions. The union cannot interpret the employer's disregard of its threats as evidence for asset-stripping. Therefore, although union leaders know that only disruptive actions work in saving the plant from closure when confronting asset-strippers, they also know that disruptive actions can bear the extreme cost of triggering plant closure or repression if used against employers interested in production.<sup>52</sup>

In short, in light of the discussion on the game's equilibrium, I derive two propositions from the analysis above (they will be presented again in section 3.2.4.). First, to the extent unions can overcome the uncertainty over employer intentions, one should expect no conflict-oriented (disruptive) actions of unions against employers in the upper half of the game (for employers interested in production), as such actions are either ineffective - in both countries (due to the high costs they entail under structural difficulties for labor), or - in Ukraine - employers can offer unions social benefits in exchange for not carrying out disruptive threats. For the lower half of the game (for employers interested in asset-stripping), to the extent that unions can overcome the uncertainty around employer intentions, I expect all unions to make use of conflict-oriented (disruptive) threats or actions in the form of triggering (or threatening to trigger) state intervention. I will discuss in Chapter 6 to what extent the empirical cases actually confirm these two propositions as well as the additional propositions developed below.<sup>53</sup>

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<sup>51</sup> Again, this is possible only in some contexts, such as Ukraine, and not in Romania; moreover, in post-Soviet contexts a union does not automatically become incapable of being autonomous as soon as the employer extends the offer of administering social benefits. The union still has a choice to accept the employer's offer or not, even if one can argue that the chance is high that it will accept the offer of administering social benefits instead of representing workers.

<sup>52</sup> The reader might find the expectation that only disruptive actions bring results against asset-strippers far-fetched. However, the most obvious reason why non-disruptive actions such as lawsuits cannot work in these cases is mainly because it is not the trade union with whom the employer has signed the privatization agreement, but the state. The union can only signal to the state the breach of the privatization agreement (in some cases studied in this dissertation requiring the employer to continue production at the plant), but it cannot sue the employer. Equally important, lawsuits take time, and employers interested in asset-stripping can basically go on with selling plant assets while at the same time stalling for time in court. Third, asset-stripping might be legal, or employers might actually find legal formulas that justify asset-stripping. In one of the cases studied in this dissertation (a contention episode at a harvester plant in Ukraine) the employer allowed the plant to accumulate debt to other companies owned by the same employer (the employer did not allow the plant to pay its debts), and in the end sued in the name of the other companies for the plant's bankruptcy. In that case, the employer had the legal backing for asset-stripping.

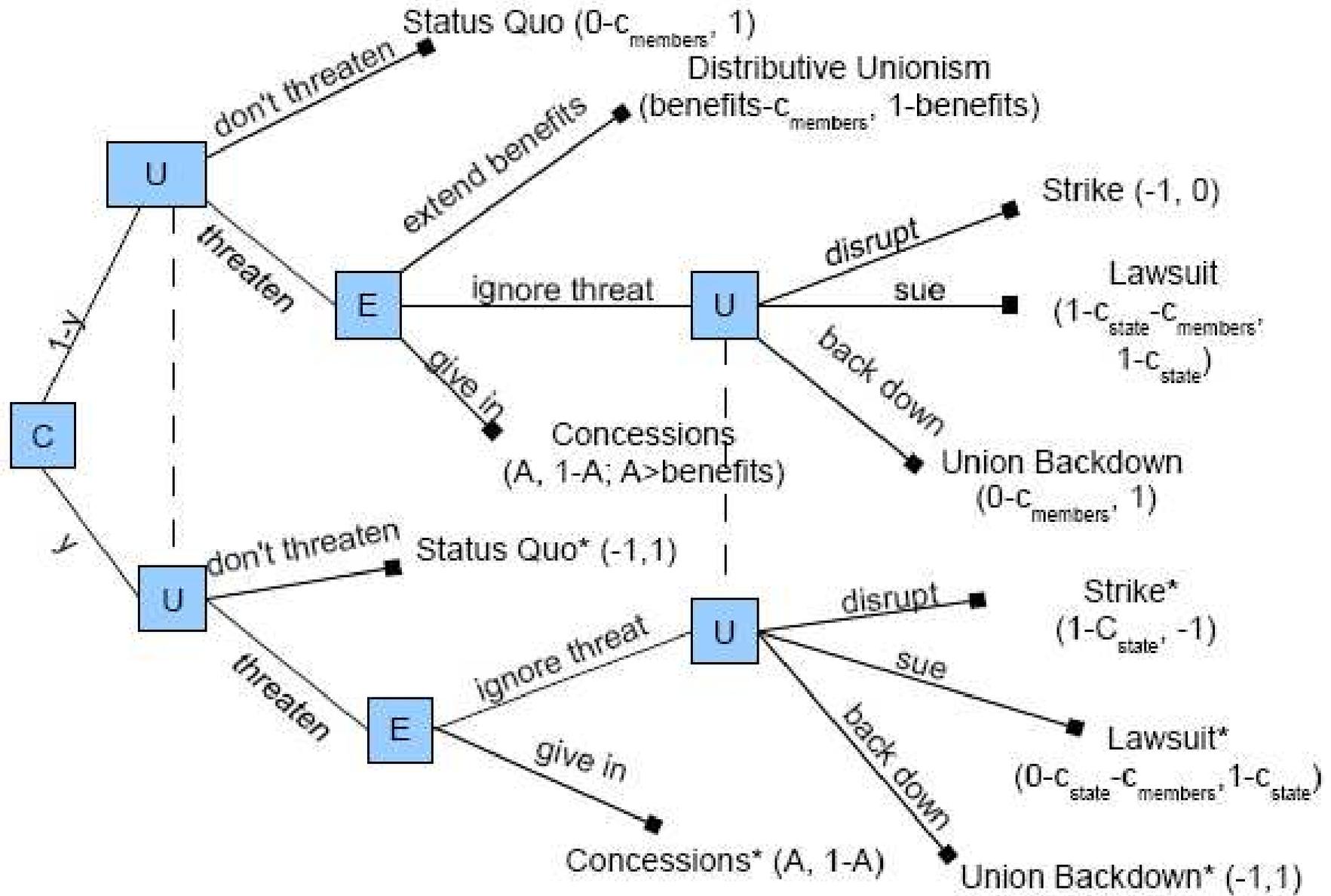
<sup>53</sup> As we will see in the empirical chapters, unions do not know when the game starts what sort of employer they are dealing with (asset-stripper or not). Most unions in this study had to deal with this uncertainty over employer intentions throughout entire contention episodes. Some chose to play it safe and not take conflict-oriented actions, but some unions actually took the risk and engaged in disruptive actions. Some unions actually developed a level of certainty about employer intentions that allowed them to adapt their strategy accordingly from the start of the contention episode. Sometimes, the evidence for

These game-theoretical propositions above offer little details about what trade unions actually do in response to employer actions. The next section presents the study's set of propositions, clarifying how and when trade unions combine strategy elements to bring about labor representation. Supplementing the game-theoretical analysis, the propositions explore how contextual differences in the employer's power over union funds and ranks (differences between Romania and Ukraine), coupled with the employer's interest in production, matter for labor strategy. As hinted in the previous comments, there are unions that manage to escape the logic of the game-theoretical analysis presented above and also to contradict the previous two propositions. Unions can break the logic of the game outlined above by using the three strategy elements. First, they can limit the uncertainty over owner intentions, by finding support outside the plant to find out more about the employer, or by manipulating the definition of the situation to mobilize workers against the employer, diminishing uncertainty over employer intentions by portraying the employer as an asset-stripper (asset-stripping means that everybody's place at the plant is under threat). Second, by distinguishing between different addressees of threats, trade unions combine disruptive and conciliatory actions to simultaneously limit member costs and avoid employer repression; or, by pressuring the state to enforce threats, they effectively use conciliatory strategies against asset-strippers. An in-depth discussion of these points will follow in the empirical chapters.

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employer intentions was obvious, for instance in the cases in this dissertation when employers actually made public their decision to close down the plant. In most cases, however, certainty over employer intentions followed only after intense struggles in the union over the definition of the plant's situation.

Figure 3.2: The Union Strategy Game



Note that the outcomes and payoffs for the same courses of action are different in the upper and the lower half of the game since different employer intentions change payoffs and outcomes for union and employer. The figure rests on the following further clarifications (some of them already mentioned in the game-description above).

### *Clarifications*

The outcome labels for the upper half of the game (with employers interested in production) have the following meanings:

- “Status Quo” is a situation in which a union chooses not to make any threats even if it observes infringements of workers’ rights and interests. In this outcome the union faces the costs of member discontent, and the employer is in the most advantageous situation in the upper half of the game (a payoff of 1 for the employer means that the employer can realize production and profit targets without sharing anything with the union).
- “Distributive Unionism” refers to a situation in which in exchange for giving up threatening, the union gets to administer social benefits. However, it does so at the cost of giving up the representation of workers, and giving up the issue over which it was threatening. This might spark the members’ discontent. The payoffs are ‘benefits- $c_{members}$ ’ for the union (the benefits it gets from the employer minus costs incurred from the members’ discontent), and 1-benefits for the employer.
- “Concessions” refers to a situation in which the employer gives in to a threatening union’s demands. Usually union and employer will agree over some concessions, bringing them a payoff of  $A$  for the union ( $A$  is a number smaller than 1, the maximum payoff for the union, and higher than the benefits supported by the employer in the “Distributive Unionism outcome”), and  $1-A$  for the employer.
- “Strike” refers to the situation when a union chooses to face the costs of disruptive actions against an employer interested in production and carry out the threats of striking. In the upper half of the game costs are extreme for the union, possibly triggering the relocation of the plant. The payoff -1 for the union denotes the worst possible outcome for the union, job loss due to plant closure or no gains and the union losing its place at the plant. The payoff 0 for the employer means that the employer is in a worse situation than, for example, in a situation in which the union makes no threats – the Status-Quo outcome. Nevertheless, even if the employer has to give up production plans due to the union’s disruptive actions, it can still limit losses to a payoff of 0 by selling the plant or its assets.
- “Lawsuit” refers to a situation when the union builds up the means to influence an employer interested in production without making use of disruptive actions (such as strikes), usually by suing the employer. In this situation it is possible that a union realizes a maximum payoff of 1 (in the ideal situation that a court will recognize employer infringements of worker rights and interests). However, the union still faces lawsuit costs (noted as costs of state intervention,  $c_{state}$ ). It also faces possible member discontent with a course of action that might take a long time before actually reaching the outcomes desired by workers and union. The payoff for the employer is  $1 - c_{state}$ , with  $c_{state}$  representing the costs of the union’s legal action (ranging from representation costs to what it would have to give up to the union in case the union wins in court).
- “Union Backdown” refers to a situation in which, after threatening the employer without results (the employer plays ignore threat), the union gives up the issue over which it was protesting. However, it does so at the cost of giving up the representation of workers, and giving up the

issue over which it was threatening. This will probably spark the members' discontent. The employer makes the maximum payoff possible in the game, 1.

The outcome labels for the lower half of the game (with employers being asset-strippers) are the same as for the upper half of the game in order to symbolize the uncertainty facing the union. Outcomes in the lower half of the game are distinguished by an asterisk from the similar outcomes above. They have the following meanings:

- “Status Quo\*” is a situation in which a union chooses not to make any threats even if it observes infringements of workers' rights and interests. The outcome bears the same name as the corresponding outcome in the upper half of the game since the union does not know at this stage in which game it is. In this outcome the union faces not only the costs of member discontent, but the extreme costs of plant closure (-1, meaning complete job loss without compensation). The employer can realize in this outcome a payoff of 1, meaning that it can asset-strip the plant without union interference.
- “Concessions\*” refers to the concessions made by an employer-asset-stripper. For instance, the employer might give in to union threats and might sell the plant instead of asset-stripping it. Alternatively, it might offer workers substantial severance pay that makes up for closing the plant (noted as an employer payoff or 1-A, with A the size of severance payments or of the size of the difference between the profits from asset-stripping and the profit from selling the plant).<sup>54</sup>
- “Strike\*” refers to the situation when a union chooses to face the costs of disruptive actions against an employer asset-stripper and trigger the intervention of the state via disruptive actions (portrayed as a cost in the union's pay-off). The union will probably first organize a strike, but faced with an employer that ignores the strike, the union will calibrate threats and actions accordingly and organize a factory occupation. At this point, it is crucial that the union triggers state intervention: it needs to have the state on its side in order for the authorities not to impose sanctions on the occupation. State intervention comes at a cost (noted as  $-c_{state}$  for the union): the union might have to organize protests outside the plant to trigger such intervention. In case of state intervention that recognizes the legality of union actions the employer risks losing the plant, with a corresponding payoff of -1.
- “Lawsuit\*” refers to a union building up the means to influence the employer-asset-stripper without making use of disruptive actions (such as attempting to trigger state intervention). The outcomes of such actions usually mean that a union manages to postpone the juridical liquidation of an enterprise, even if in practice the employer might very well succeed in selling the plant's assets. The union still faces lawsuit costs (noted as costs of state intervention,  $c_{state}$ ). It also faces possible member discontent with a course of action that might take a long time before actually reaching the outcomes desired by workers and union. It cannot make a payoff of 1 as in the corresponding outcome in the upper part of the game because it cannot force a change in the employers' intentions for the plant in court (unions do not have the possibility of suing over ownership issues, since they were not a part in the privatization contract). The payoff for the employer is  $1 - c_{state}$ , with  $c_{state}$  representing the costs of the union's legal action (ranging from representation costs to what it would have to give up to the union in case the union wins in court). The employer might get a payoff of 1, if the lawsuit is inconclusive or does not succeed in delaying employer plans of asset-stripping the plant.

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<sup>54</sup> It is very unlikely that the game will end at this outcome. The employer has little reasons to find the union's threats credible. This happens because the union will choose to make strike- or law-suit-threats that are inappropriate if addressed to an asset-stripper. Furthermore, as structural difficulties to labor action are known, the employer will not find the union's threats credible.

- “Union Backdown\*” refers to a situation in which, after threatening the employer without results (the employer plays ignore threat), the union gives up the issue over which it was protesting. In contrast to the corresponding situation in the upper half of the game, the costs of backing down in the lower half of the game are extreme: total job loss due to plant closure, with a payoff of -1 for the union. The employer makes the maximum payoff possible in the game 1, as it gets the profit from selling the assets.

Preferences over outcomes:

$U_U$  refers to the utilities of the trade union;  $U_E$  refers to the utilities of the employer;  $A \in (0,1)$ ;  $1 > A > \text{benefits}$ ;  $c_{\text{state}}, c_{\text{members}} \in [0,1]$ <sup>55</sup>

For the trade union (the preferences over outcomes read from the most favored ones – those with corresponding payoffs of 1 – in descending order to the least favored ones, with corresponding payoffs of -1):

$U_U(\text{Strike}^*) = 1 > U_U(\text{Lawsuit}) > U_U(\text{Concessions}) > U_U(\text{Concessions}^*) > U_U(\text{Distributive Unionism}) > U_U(\text{Union Backdown}) > U_U(\text{Status Quo}) > U_U(\text{Lawsuit}^*) > U_U(\text{Strike}) = U_U(\text{Union Backdown}^*) = U_U(\text{Status Quo}^*) = -1$

For the employer:

$U_E(\text{Status Quo}) = 1 = U_E(\text{Status Quo}^*) = U_E(\text{Union Backdown}) = U_E(\text{Union Backdown}^*) > U_E(\text{Distributive Unionism}) > U_E(\text{Concessions}) = U_E(\text{Concessions}^*) > U_E(\text{Lawsuit}) = U_E(\text{Lawsuit}^*) > U_E(\text{Strike}) > U_E(\text{Strike}^*) = -1$

### *Assumptions of the model*

The model assumes for the sake of simplicity stable employer preferences. (Actually, at least in the cases of the contention episodes in Vinnitsa and Kherson, presented in Chapter 5, the employer apparently changed preferences.) This assumption does not diminish the relevance of the cases in my sample; it is just that the story is far richer, of course, than the model could ever depict in its single-round form. Thinking of it as a game with multiple rounds can help in relaxing this assumption.

Second, the model assumes also for the sake of simplicity that employer infringements upon workers rights or interests can be treated as equivalent (i.e., it does not matter what unions protest about). I think that the current payoffs for union actions remain unchanged no matter what the actual topic of protests is – be it working conditions, the protection of tariff systems (systems of differentiating pay on the basis of worker skill level), work overload, or the most dramatic topic, wage arrears. If the topic is plant closure, then the union will automatically know that it is in the lower half of the game, but in none of the cases studied here such information was available to the union from the game’s (the contention episode’s) start; with a couple of exceptions, employers usually did not disclose that they were attempting to close down the enterprise.

Third, the model assumes that the trade union has the autonomy to decide whether to threaten or not in the first place (i.e. it starts the game). How the trade union might find itself in such a situation given the structural difficulties that it always faces is an empirical question, to be explored in the case of every union in the sample.

<sup>55</sup> In words,  $A$  cannot take the values 0 or 1, but is located somewhere between these two values. This means that what a union can get in the Concessions outcome is less than 1, and can be less than in the outcomes of Lawsuit (if  $1 - c_{\text{state}} - c_{\text{members}} > A$ ). It is in any way more than in the Distributive Unionism outcome (as  $A$  is bigger than “benefits”). Similarly, for the lower half of the game, what a union could get in the Concessions\* outcome can be more than in the Strike\* outcome (if  $1 - c_{\text{state}} < A$ ). In contrast to  $A$ ,  $c_{\text{state}}, c_{\text{members}}$  can take the values 0 and 1, either giving the union the maximum payoff of 1 in the Lawsuit and Strike\* outcome, or nullifying that payoff and bringing the union in a situation worse than in the Concessions-outcome.

### 3.2.4. The Propositions

To explore the workings of strategy elements and different combinations thereof, this dissertation selects episodes of contention in two Eastern European countries – Romania and Ukraine - that differ in the structural difficulties that their political economies pose to organized labor. Concretely, the employer's control over the trade union's funds and ranks in post-Soviet countries such as Ukraine is expected to make labor representation a more difficult task in Ukraine than in Romania, where labor does not face this obstacle. It is expected that both conflict-oriented and conciliatory approaches have higher chances to be successful in the first of the two countries, Romania, where trade unions face less obstacles in acting autonomously from the employer. In Ukraine managers are often allowed to be union members, and it is only in the late 1990s that trade unions pushed for a law to ban union membership at least for general managers. As discussed in the previous chapter, the law, however, did not ban membership for management below the general manager (such as line managers or foremen) and is often not enforced even regarding general managers. As to union funds, in many plants in Ukraine the unions can still count on substantial welfare benefits to distribute, benefits that come from the employer. The provision of such funds allows unions to take the road of least resistance towards the employer, and distribute social benefits rather than represent workers in front of the employer. Therefore, when workers initiate demands, they often have to do so without the union's leadership, know-how, connections, and full-time work that the union could dedicate to the task of promoting the workers' demands. If a Ukrainian union tries to strike or to take an employer interested in production to court, the employer can later use its power over union ranks to replace union leaders with others who limit their activities to administering management-sponsored social wages. As an result, such power over funds and ranks effectively deters Ukrainian union leaders and stops the union from acting autonomously of the employer. Union leaders do not try to expand their role of social-wage administrators to acting to influence the labor exchange, unless there is a crisis making the provision of social wages impossible. Such a crisis occurs when the employer is not interested in production anymore, or when the plant faces economic problems so that the employer can no longer provide the union with social benefits to distribute. In situations of crisis, union leaders can define the situation of their plant in a way that is shared by workers, and establish some common ground for opposition to management. This opens prospects for successful labor representation.

It will be hypothesized that it is this difference in management power over union funds and ranks that explains why Romanian unions can generally be more successful in bringing about labor representation. This idea – of the impact of the difference between management power between Romania and Ukraine – is part of the argument regarding the structural difficulty to mobilize. It shows an important limitation to the workings of strategy in bringing about labor representation, a limitation uncovered by using an explorative research design that puts a set of strategic elements - initially identified by studying several Romanian contention episodes - to work in the Ukrainian context.

The table of propositions below makes these ideas explicit. It specifies which strategy elements matter in which situation, showing for instance that although threat potential always matters in convincing the employer to negotiate, it relies on *different* combinations with other strategic elements, depending on the type of context (country – whether management has power over union funds and ranks), mode of interaction, and employer intentions. Employer intentions – whether the employer is interested in producing at a plant or not, an issue mentioned under the heading “difficulty posing threats to employers” in the previous chapter, is also expected to determine different strategy combinations leading to labor representation. The propositions below will list different strategy combinations expected to bring about labor representation, depending on the situation that labor faces.

These situations range from labor facing an employer interested in production and with no power over union funds and ranks to the situation that leaves the least room for labor representation, an employer interested in production and with power over union funds and ranks. For instance, in situations when the employer is not interested in production, threat potential needs either a shared definition of the situation (to mobilize workers) or support from outside the plant to ensure communication and enforcement (in situations where unions try to disrupt relations of property and return a private plant into state property); yet in such a situation workers and union have a higher chance of sharing a situational definition given that the employer has no more power over union funds, and the trade union has an incentive to act more in the interest of workers and no longer as a distributor of social benefits. The study begins from the following proposition.

P1) *Strategy matters: Strategy is a necessary condition for bringing about labor representation.* The point of this proposition is to show that labor representation does not come about because of factors that have nothing to do with the agency of labor – for instance, because the state makes sure that there is labor representation, by protecting trade union independence, ensuring that trade unions are connected to the demands of workers, and forcing employers to negotiate and reach agreements with labor. Quite to the contrary, analyses focusing on the relationship between state and trade unions in post-communist states have shown the opposite picture, of state organs often failing to protect elementary collective representation rights of workers (Kubicek 2004; Mandel 2004). Instead, workers (and unions) need to act and to do so strategically if they want to further their interests. To prove this point, the dissertation uses comparisons between the levels of labor representation at the same plant at different moments in time, depending on the extent that labor makes use of strategic elements. As to how strategic elements combine to bring about labor representation depending on the situation, the dissertation works with the following additional propositions.

P2) *If an employer is interested in production and has no power over union funds and ranks, a conciliatory union can rely on threat potential alone in bringing about labor representation. (Threat potential is a necessary and sufficient strategic element.)* In the case of a conciliatory union, threat potential relies on non-disruptive threats and can do without a shared definition of situation, at least over the short term (during initial episodes of contention).

P3) *If an employer is interested in production and has no power over union funds and ranks, a conflict-oriented union must reach a shared definition of the situation (over which to protest) with workers, in order to establish threat potential. (Threat potential and a shared definition of the situation are necessary conditions for success when a conflict-oriented union confronts an employer interested in production.)*

A conflict-oriented union needs first a shared definition of the situation with the workers, to allow it to have a threat potential, to constitute, communicate and enforce the threat. Remember that it has been said above (section 3.2.2.) that trade unions can develop threat potential in two ways: either via a conciliatory approach (where threats do not target production, but instead rely on taking the employer to court), or via a conflict-oriented approach, involving threats to disrupt production. If the trade union takes a conciliatory approach, achieving labor representation should require no other strategic elements but making some threats (such as taking the employer to court). However, it often happens that lawsuits take long enough to make this strategy ineffective, and therefore a trade union can turn to a conflict-oriented approach, basically by threatening to strike. In order to strike, however, the union needs the support of the workers, and therefore also a definition of the situation shared by union and members. Reaching such a shared definition might prove problematic, especially if the initiative will come from the union – and not from the workers - because unions face a structural difficulty mobilizing workers. Nevertheless the empirical chapters will present two unions that actually took the initiative of reaching a shared definition of the situation with workers.

P4) *If the employer is interested in production and operates in a context with strong managerial power (control over union funds and ranks), there cannot be any labor representation,*

*irrespective of whether the union is conciliatory or conflict-oriented.* This happens because unions cannot act autonomously of the employer, since unions receive funds to distribute as social benefits and therefore avoid representing workers during episodes of contention.<sup>56</sup> In other words, a context-related factor – employer control over union funds and ranks - influences labor representation more than strategy, by affecting the prospects for the union coming up with a strategy. This does not mean, however, that workers will not raise demands or that there will be no contention at the plant. It is just that the union does not take part in contention, and that a sizable part of the workers will not raise demands or will not risk acting collectively to further demands as long as they risk losing social benefits.

It is expected that conciliatory unions can be successful only when facing employers interested in production in contexts that allow unions to be autonomous (where there is no management control over union funds and ranks). Here they can rely mainly on the strategic element of threat potential, as long as they can constitute, communicate, and enforce threats without using disruption (a situation already discussed under P2).

*P5) If the employer is not interested in production, conciliatory unions cannot pose threats to the employer and therefore cannot bring about labor representation.*

This proposition is derived from the game-theoretical analysis above. In this situation the employer owns the plant for reasons other than production; that is, the employer might have taken over the plant out of interest in the plant's assets. Sooner or later, the employer's disinterest in production will lead to a deterioration in pay and working conditions at the plant, and will prompt worker protests. In this situation conciliatory unions - even if they win in court cases over wages or working conditions - cannot change in court the employer's plans for the plant, and problems with pay and working conditions are bound to re-emerge. Nor can unions – via law suits – demand the return of the plant into state property, a possibility that is not provided for by national law either in Romania or Ukraine. Conciliatory unions therefore cannot establish threat potential vis-à-vis the employer, not in the short-run and especially not in the long-run, when problems of deteriorating pay and working conditions only increase. This is a case of unions following the wrong strategy given the context they are in, as an employer's disinterest in production makes the strategies of conciliatory unions ineffective, i.e. they cannot bring about labor representation. It is expected that conciliatory unions will in such a situation turn conflict-oriented, a case when the relevant proposition for this situation becomes P6.

*P6) If the employer is not interested in production, conflict-oriented unions take struggles outside the plant and find ways to address the issue of support from outside the plant. (Outside support is a necessary condition for success.)*

Support from outside the plant matters most when the union confronts an employer with no interest in production. As stated under the heading of the previous proposition, all unions are expected to turn conflict-oriented in such a situation. This happens, on the one hand, because employers no longer extend funds to the union to administer as social benefits and pacify at least a part of the workforce; on the other hand, pay and working conditions at the plant deteriorate, pushing workers to protest and pressure the union. Outside support becomes crucial for allowing the union to pose a threat to the employer; since the employer is not interested in production, the union will usually attempt to pose threats in the form of disruption of property relations: the only thing that it can still threaten with is to threaten the employer with taking over the plant, so that the employer cannot make profits from asset-stripping it. In exchange for giving up the threat or action of plant occupation, unions usually demand some sort of compensation for the workers facing the prospect of losing their jobs: severance payments and, most often, return of wage arrears. In order for such threats to be credible, a union

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<sup>56</sup> At least in the cases that I have studied during fieldwork, I found no evidence for the possibility that a union might have ever tried to administer social benefits and at the same time ensure labor representation.

needs actors outside the plant to offer the support to establish communication and enforcement of threats. Because property relations are guaranteed by the state, the plant-level alone is no longer sufficient for guaranteeing to the union that threats to the employer will be communicated and enforced. For instance, when an owner is not based at the respective plant – but in some other very distant town or country – it is only by organizing some kind of support from actors outside the plant that the union can hope to communicate to the owner and enforce the threat of disrupting property relations. Also, since disrupting property relations almost always takes the form of plant occupations, organized labor needs the support of other actors to enforce the threat that it can credibly disrupt property relations, i.e. without triggering a reaction of the authorities favorable to the employer.

Table 3.1 presents five of the six propositions, omitting the first one (that strategy generally matters). The table classifies the five propositions (P2-P6) in terms of conciliatory versus conflict-oriented modes of interaction, employer commitment to production, and low versus strong management control over union funds and ranks (Romania versus Ukraine). The table shows that in a context with strong employer control over union funds and ranks (in Ukraine), there can be no labor representation if the employer is interested in production. Only conflict-oriented unions can bring about labor representation, but only if the employer is not interested in production. The scope for labor representation is much broader in the other context, Romania, where the employer does not control union funds and ranks; labor representation can come about in such a context irrespective of employer commitment. In other words, the table shows how context-related factors can determine which specific strategy elements bring about labor representation, or when labor representation is not possible at all.

**Table 3.1: Table of hypotheses with employer interest distinction and managerial power over union funds and ranks**

Type of context/ Interaction mode	Context 1: No managerial power over union funds and ranks (Romania)		Context 2: managerial power over union funds and ranks (Ukraine)	
	Employer interested in production	Employer not interested in production	Employer interested in production	Employer not interested in production
<b>Conflict-oriented</b>	Threat potential matters. Definition of situation crucial for mobilization and threat potential (P3)	Outside support matters. Threat potential disruptive only; support matters for disruption and mobilization (P6)	No labor representation possible (union cannot be autonomous due to context) (P4)	Outside support matters greatly for supporting disruption and mobilization. The shared definition of situation emerges because wage arrears unite workers and unions (P6)
<b>Conciliatory</b>	Threat potential still crucial, but relies on non- disruptive actions (P2)	No labor representation (union not effective). Unions cannot change in court the employer's plans for the plant (where these differ from the privatization contract) (P5)	No labor representation possible (union not autonomous). Staying conciliatory comes at the cost of autonomy: unions survive but not as coalitions of labor suppliers (P4)	No labor representation possible (union not effective) (P5)  No union stays conciliatory in this situation. Unions either abandon conciliatory approaches trying to disrupt property relations or disappear altogether. (The proposition relevant for this situation is P6)

### **3.3. Research Design**

#### **3.3.1. Ranking Cases on the Dependent Variable**

As argued in the chapter's first section, I use a definition of success that couples the following dimensions of labor representation: input and output legitimacy, autonomy, and effectiveness understood as 'influence' (the partial achievement of demands). This way - and by using episodes of contention rather than plants or unions as cases - the study allows for degrees of success and achieves more variation in the dependent variable, and more causal leverage. Degrees of success refer to the very likely situations when unions achieve only part of the demands raised by workers, and this outcome (partial achievement of demands) is accepted by workers (output legitimacy). I usually establish that workers accepted an outcome by studying workers reactions to that outcome and how much support workers show for a union after the union communicated an outcome. This is established through questions such as whether workers stay in the union, whether workers still participate in collective action, and whether the leading committee of the union still reaches majority decisions or is deeply divided over the outcomes of previous actions. I count as cases of "successful labor representation" all contention episodes where unions span the space between unions that achieved the outcome of fulfilling all worker demands (only one in the entire sample of eleven unions), to those that achieve only some demands or even exchange in negotiations with employers those demands for an agreement over other issues, as long as a majority of workers accepts the outcomes. This raises the number of episodes of contention when unions successfully brought about labor representation from one to seven (out of fifteen episodes of contention). The table below presents an overview of the fifteen cases of episodes of contention in terms of how unions score on the several dimensions of labor representation. Scores of 3 mark successful unions, meaning that the union was successful on all three dimensions of labor representation: effectiveness as influence, autonomy, and legitimacy. Data for the table comes from fieldwork. The difference between episodes of contention with a score of 1-2 and those scoring 3, between lack of success and successful labor representation, is related to the union's ability to have not only influence over outcomes but also make sure that the outcomes of their actions are accepted by workers.

**Table 3.2: How cases rank on the dependent variable dimensions**

(abbreviations refer to plant names, town names in brackets, first six cases took place at plants in Romania, the others in Ukraine)

<u>Episode of contention (case)</u>	<u>Effectiveness</u>	<u>Autonomy</u>	<u>Legitimacy</u>	<u>Score</u>
	<u>Influence</u> Did the union achieve some goals?	Is the union autonomous from the employer?	Do workers accept outcomes of union action?	
CSR(Reșița, RO) 2000-2003	Yes	Yes	Yes	<b>3</b>
Socomet (Oțelu Roșu, RO) 1999-2003	No	Yes	No	1
ISPAT (Hunedoara, RO) 2003-2008	Yes	Yes	No	2
COS (Târgoviște, RO) 2005-2008	Yes	Yes	Yes	<b>3</b>
COS 2008	No	Yes	No	1
ZAZ (Zaporizhia, UKR) 2007	Yes	No	No	1
KrAZ (Kremenchuk, UKR) 2003-2004	Yes	Yes	Yes	<b>3</b>
KrAZ 2005	No	No	Yes	1
TKZ (Ternopil', UKR) 2007-2008	Yes	No	Yes	2
HK (Herson, UKR) 2006-2007	No	Yes	No	1
HK summer 2007	Yes	Yes	Yes	<b>3</b>
HK 2008-2009	Yes	Yes	No	2
VPZ (Vinnitsa, UKR) 2002-2003	Yes	Yes	Yes	<b>3</b>
VPZ 2005-2006	Yes	Yes	Yes	<b>3</b>
VPZ 2008	Yes	Yes	Yes	<b>3</b>

This dissertation's main empirical and theoretical goal is the identification of circumstances under which labor representation can take place despite the presence of structural difficulties of organized labor. The most important causal claim of the research is that even in difficult political and economic contexts trade unions develop specific strategies that can lead to effective labor representation (i.e., that "strategy" leads to labor representation and success). Through research design (case selection) the study intends to distinguish the effects on labor representation of the key explanatory variable of "strategy" from the workings of structural variables – the structural difficulties (by keeping these variables constant, at a level representative of each country's political and economic context). The study also intends to show which specific strategy combinations ensured effective labor representation, and thus goes beyond the isolation of a certain cause's effect.<sup>57</sup> In order to determine the workings of different strategy combinations the study relies on process-tracing, on establishing for each episode of contention the decisions taken by organized labor, the course of events linked to these decisions, and the constellation and behavior of actors around such events.

The "cases" of this dissertation are episodes of contention rather than plants or unions. Using the data collected during an initial round of fieldwork in late 2007, I selected the episodes of contention for each plant by focusing on the biggest and most protracted crises the plant went through *after* privatization.<sup>58</sup> If after the resolution of that particular crisis (contention episode), there were no other cases of contention at a plant, I limited the study to one contention episode per plant. If other contention episodes erupted, I studied what happened in each contention episode until there was some final resolution (usually in the form of one of the opposing sides leaving the picture: either the private owner following the re-nationalization of the plant, or the union in the cases when the plant ceased to exist or the union lost its autonomy). This led, for instance, to the inclusion in this study of a second contention episode for three Ukrainian plants.

### 3.3.2. Country Selection

The research design includes, first, case studies from a country that witnessed much higher levels of protest than the post-communist average. This difference in mobilization could mean that trade unions in such a country found ways to mitigate structural difficulties of mobilizing, threatening, and breaking out of isolation. Romania witnessed in the 1990s and 2000s more industrial conflict than any other post-communist country (see the previous chapter). Romanian trade unions contradict the expectation of the literature on Eastern European labor linking "labor weakness" to the trade unions' failure to mobilize large numbers of workers (the thesis of communism's "ideological legacy"). However, despite Romanian unions achieving mobilization, this did not mean that they could automatically achieve more than their other Eastern European counterparts. Despite being stronger in terms of influence over governments – particularly over legislation - than Eastern European unions elsewhere (Pasti 2006, Trif 2008, for the opposite argument see Kideckel 2001), organized labor was – regardless of the numbers it could mobilize - less successful against private employers at the plant-level. This leads to the idea that overcoming mobilization problems is not enough for trade unions to successfully represent the interests of workers, and that there are other difficulties that trade unions have to address through their strategies if they want to achieve labor representation. (More generally

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<sup>57</sup> On the relevance of the identification of causal mechanisms via case-studies and on how generalizations can afterwards be drawn see McKeown 2004: 163; see also Knight/ North 1997 and George/ Bennett 2005: 12 on causal mechanisms versus causal effects.

<sup>58</sup> I did at least two rounds of fieldwork at almost every plant with the exception of the steel plants in Hunedoara and Oțelu Roșu (both in Romania, one fieldwork round for each), and a maximum of four fieldwork rounds in Târgoviște (Romania), and Vinnitsa (Ukraine).

this means that workers' mobilization is a necessary but insufficient condition for the success of labor.)<sup>59</sup> The research design includes episodes of contention in four Romanian plants, with two episodes where unions achieved labor representation and three episodes where unions were unsuccessful.

Case selection includes also episodes of contention at plants in a post-Soviet country, Ukraine. The reason behind this is that the study intends to gauge whether specific combinations of strategy identified in Romania can be expected to have similar effects across a broad range of post-communist countries. So far no study undertook a comparison in terms of structural difficulties of organized labor, labor strategy, and their effects on labor representation between post-Soviet and other post-communist countries. This study selects cases in Ukraine, a country where – in comparison to Romania - employers have more discretionary power in controlling union ranks and funds. This contextual challenge makes it even more difficult for labor to make gains in relation to employers. Therefore it is insightful to study whether and how workers in this context can protect their interests vis-à-vis employers. If for the success of both Romanian and Ukrainian labor what mattered were a shared situational definition, credible threatening, and organizing support outside the plant, this should strengthen the case for accepting the study's central proposition that labor representation depends on specific combinations of labor strategies.<sup>60</sup>

The other reason for selecting post-Soviet Ukraine and not carrying out this study only in Romania is that at least in Romanian industry many trade unions can be regarded as coalitions of labor suppliers. Trade unions in key Romanian industrial sectors emerged bottom-up in the reform year 1990, in clear rejection of the communist model of unionism consisting of exchanging subordination to the state for the right to administer social benefits. In other words, Romanian unions already start from a situation where they do not have to pursue all three dimensions of labor representation. They already are autonomous, but what is still lacking are legitimacy and effectiveness. In contrast, Ukrainian labor still has a long way to go in order to establish autonomous trade unions. The tasks ahead are more complicated than in the Romanian case and cover all three labor representation dimensions. By taking the Ukrainian contention episodes on board, I could observe whether and how labor can deal with all three dimensions of labor interest representation. The research design includes episodes of contention in five Ukrainian plants, with three episodes where unions achieved labor representation and four episodes where unions were unsuccessful (at three plants I studied two contention episodes for each plant).

The study thus focuses on cases of successful labor representation in the two countries. Seven out of fifteen episodes of contention included in the study are such successful cases. The other eight are cases where organized labor was unsuccessful but where workers (not necessarily unions) at least formulated demands to employers and authorities. The study will compare the successful and unsuccessful cases, in order to single out the most important strategic elements in ensuring effective labor representation.

### **3.3.3. Mode of Interaction**

Case selection in this project is driven not only by the logic of controlled experimentation but also by an interest in diversifying the empirical domain of observation to generate more data relevant to the research question. Therefore, and for the theoretical reasons discussed under 3.2.2, the selection of

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<sup>59</sup> This latter proposition is confirmed by other studies of workers' movements, see Levi/ Olson 2000.

<sup>60</sup> In the words of Munck (2004: 220), "if this evidence suggests that a similar mechanism produced or prevented the outcome in each case, this constitutes evidence for causal homogeneity."

episodes of contention includes unions with different “modes of interaction” (Scharpf 1997) during the episodes of contention under study. Specifically, during roughly half of the episodes of contention (featuring both successful and unsuccessful unions) labor has taken a more conflict-oriented approach towards both business groups and state representatives (in each country). Conflict-oriented labor made threats or attempts of disruption. Disruption refers to either disrupting production or taking control over the plant (disrupting the employer’s property rights over the plant). In the rest of the cases labor followed a conciliatory approach, operating without any threats to disrupt production or property relations.

Again, the logic behind this distinction is not only the isolation of causes (of a certain independent variable, in this case assessing the impact of different modes of interaction and different strategies for labor representation). It is also to find out more about how large labor's scope for opposition is, and what concrete forms such opposition can take, in order to infer which the determinants of success were and how labor combined them. The basis for selecting episodes of contention is less to find “typical” cases, but rather [...] ‘telling’ case[s], in which ‘the particular circumstances surrounding a case serve to make previously obscure theoretical relationships sufficiently apparent’” (McKeown 2004).

Furthermore, the inclusion of conciliatory unions should minimize the considerable bias risked by selecting conflict-oriented unions from the press. Since most press reports focus on unions achieving some form of disruption, selecting cases from the press only would lead to a skewed sample, since most unions in Eastern Europe abstain from disruptive actions. Instead, I selected the conciliatory unions in interviews with trade union officials in the two countries, asking these officials to name plants where they considered that labor representation was high (simply which unions they consider to have achieved the most for workers) despite the apparent absence of contention.

### **3.3.4. Industry- and Plants-Selection**

The cases come from the two countries’ metal sectors, including metallurgy and machine- and machine-parts-producing sub-sectors. The reason for this choice is that the metal sector went through dramatic restructuring and full privatization after the fall of communism, and should therefore provide a good approximation of the context leading to structural difficulties for labor. The cases come from the steel industry in Romania and machine-building in Ukraine, with both sectors seeing a drop of at least 75% of the 1989-1991 workforce over the post-communist transformation's first ten years. Almost all episodes of contention (17 out of 18) took place in privatized plants. In both countries the unions figuring in the episodes covered are members of the respective national and industry-level union federations: Cartel Alfa - Metarom (Cartel Alfa is a national confederation, Metarom is its member union in the steel industry) in Romania, and FPU – ASMU in Ukraine (FPU is the Federation of Ukrainian Trade Unions, ASMU the FPU’s civil machine-building organization). A further reason for selecting this sector is that this is not a sector with production peculiarities that create particular collective action problems for workers (such as any sector where employees are isolated from each other), nor does it create particular collective action opportunities (of a particular occupational community, as in the mining sector).

The reason why I keep union affiliation constant in both countries is that the study follows how the trade union center - Metarom in Romania and the ASMU in Ukraine – dealt with contention at different plants and at different moments in time. Both Metarom and the ASMU are organizations that have seen more conflict than any other national union in their country, except for unions in mining. This is not a bias, however, as it does not translate into sector specificities which could obscure the relation between my dependent variable (labor representation) and independent one (strategy). Given

that Romanian Metarom is an industrial union of steel-workers, I might face claims that steel is an exceptional sector giving workers strategic advantages that they do not have elsewhere in the economy. While I show that this is not so in each of my cases, the other way of arguing against such a claim is to include unions from a sector that does not offer workers such advantages or one that is more fragmented in terms of union affiliation, and where some industry-wide unions do show high levels of labor representation while others do not. ASMU in Ukraine is precisely such a union, as it is only one industry union in Ukrainian machine-building. There are nine other ones, such as the Ship-builders Union or the Military Machine-Builders Union, industrial unions that, although based in a very similar – basically the same – sector, have seen much less conflict and also less reform in terms of moving away from the social-wage-supplier model towards the ‘labor-suppliers-coalition’ model. ASMU came in the late 1990s close to similar levels of labor representation as Metarom, and the fact that it is not the only national union in its sector but the only one to be in such a situation shows that labor representation does not depend so much on the sector as to make strategy irrelevant.

Table 3.3 below presents the plants where the trade unions that figure in this research are based, according to the mode of interaction, the outcome in terms of labor representation (aggregated for cases where several episodes of contention were studied), and the contextual variable of employer power over union funds and ranks. The table also includes a successful conciliatory union in a context where the employer is interested in production and has power over union funds and ranks; according to my propositions, such unions cannot be successful. The case, however, as will be argued in chapter 6, does not contradict the propositions, being an exceptional case where management and union stayed unchanged since Soviet times, and where no new private owner ever concentrated enough shares as to have the power to change the established pattern of cooperation between union and management. (The case basically represents an exception to the presence of structural difficulties hampering labor’s actions.)

**Table 3.3: Trade unions studied during fieldwork**  
(Abbreviations refer to plant names, followed by town names)

	<b>Context</b>			
	<b>No employer power over union funds and ranks (Romania)</b>		<b>Employer power over union funds and ranks (Ukraine)</b>	
	<i>Outcome</i>		<i>Outcome</i>	
<b>Mode of interaction</b>	<i>Successful union</i>	<i>Unsuccessful union</i>	<i>Successful union</i>	<i>Unsuccessful union</i>
Conflict (Union threatens to disrupt production/ property relations)	<i>CSR, Reșița</i> Union won the plant's re-privatization (virtual take-over of the plant by the union; union had to pressure the government to reach its goals)	<i>Oțelu Roșu steel plant (Oțelu Roșu)</i> Mirror-case of the union in Reșița; union organized years-long protests to re-privatize the plant but could not, as Vatra, support protesters long enough; the plant was re-privatized but without the union; workers lost their organization	<i>VPZ, Vinmitsa</i> Six years of total conflict between union and management over every possible issue, from workers' right to organize in unions to collective agreements, future of the plant, etc. Union could win mainly by pressuring authorities.  <i>HK, Herson</i> Dramatic radicalization of workers, led to the use of the most radical disruptive tactics in my Ukrainian sample, a plant occupation. Union kept its autonomy and on some occasions workers could have influence over management, for instance over union recognition and wage arrears.	<i>TKZ, Ternopil'</i> Organized a strike, the management's backlash that followed targeted activists and destroyed the union's independence  <i>KrAZ, Kremenchuk</i> Threatened to strike and management initially gave in, only to later strike back by targeting activists and destroying the union's independence
Conciliation (No threats of disrupting production/ owner's property rights)	<i>COS, Targoviste</i> Avoids strike-threats but has turned wage-debts into a basis for threat potential in court	<i>ISPAT, Hunedoara</i> Avoids strike-threats over over-work issues, fearing plant closure; tries escaping member pressure through wage increases, workforce re-conversion, job creation  <i>Roman truck plant, Brasov</i> Government-backed re-structuring allowed employer to target activists and control the union	<i>KKZ, Kremenchuk</i> This union has an easy existence at a plant that went through an atypical privatization: there is no shareholder strong enough to impose a new management policy and therefore plant management stayed unchanged since Soviet times	<i>ZEA, Sutiskyi</i> Organized a meeting to demonstrate control over workers; management retaliated by targeting activists and destroyed the union altogether  <i>ZAZ, Zaporozhe</i> Employer-union collusion, handles workers discontent via coercion, selective incentives

I selected the plants after consulting the limited academic literature that exists on plant-level worker protests in Eastern Europe, national and local press, and trade union press. This allowed me to identify the sites of episodes of contention where trade unions used disruptive methods to achieve their goals. In both countries, it is rather conflict-oriented unions that reach the media. In-depth interviews with Metarom and ASMU leaders helped me to identify also the conciliatory unions in the sample.<sup>61</sup>

### **3.4. Conclusions**

This study challenges the general labor-weakness thesis directly by arguing (and empirically demonstrating) that in post-communist contexts there were also - mostly isolated at the plant-level - unions that tried to resist employers and achieved limited successes, no matter how bleak the bigger (national) picture. This chapter discussed what elements such unions combined in their strategies, arguing that rather than working only by constituting threats to their opponents, strategies also work by ensuring that threats are communicated and enforced. The chapter introduced the concept of labor representation and operationalized it by making use of the distinction in social movement theory between understanding outcomes in terms of goal achievement and understanding them in terms of influence. I argue that process tracing and fieldwork allow for a good assessment of the influence of labor strategic action. The chapter also discussed what constitutes a case throughout the dissertation; rather than focusing on specific actors, the dissertation advances “episodes of contention” as cases. Relying on game theoretical tools and insights from social movement theory, I developed in Chapter 3 a theory of labor strategy to explain how unions can bring about successful labor representation. The theory expects strategy to matter even under the harshest conditions. Successful unions are expected to ensure a situational definition connecting the workers' and the union leaders' perceptions about employers production intentions and thus ensure that workers will back the actions of the union. Successful unions furthermore calibrate threats they address to employers to the production intentions of the employer and to the employer's organizational structure. They also ensure outside support, at least in the form of state intervention. These strategy elements (a shared situational definition within the plant regarding employer intentions, threats and disruptive actions adjusted to employer intentions, and outside support) are expected to be crucial for defending workers' rights and living standards. The chapter's last part presented the research design employed to probe a set of propositions derived from the strategic elements presented above. The chapter also discussed the reasoning behind the country- and sector-selection: the metal sector in Romania and Ukraine.

Studying unions that tried to bring about labor representation can take us beyond mono-causal explanations and give insights into the complex interplay of factors weakening labor; it can also offer

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<sup>61</sup> The table includes more plants than actually discussed in this dissertation. The two plants that I do not discuss in any of the chapters are the electrical car-parts plant in Sutiskyi, Ukraine, and the truck plant Roman in Braşov, Romania. I decided not to include the former plant in the empirical chapters due to strong similarities with the contention episodes at the truck plant KrAZ in Kremenchuk (Chapter 4). As to the latter case, I decided to include it in the sample as a conciliatory union because the history of the union indicated that the union had all the prerequisites it needed for conflict-oriented interaction, but nevertheless it was refraining from any disruptive methods (the case of the union at the Roman plant in Braşov, Romania). It turned out that the union had lost its autonomy following a wave of layoffs that had targeted the most active union leaders. I do not discuss the case in the empirical chapters, as I studied it mostly in order to gather information for the background chapter (Chapter 2). The unions in Braşov were highly influential and protest-prone in the 1990s, and it was important to find out why they had been silent ever since the moment of that plant's privatization, despite massive layoffs. Another reason for not discussing the situation at Roman was that fieldwork had shown that following the repression wave laying-off the active union leaders, the union had colluded with the employer. There was little to no labor representation to study, and also no strategy of labor representation. I present and discuss a similar case in Chapter 4, the contention episode at the car-plant ZAZ in Zaporizhia, Ukraine.

insights on how labor can override such factors. By looking into those situations in which labor overcame its problems with mobilization, breaking out of isolation, and posing threats – in which workers turn to their trade unions for defense and unions take up militant tasks – this study accompanies labor's struggle with employers and states, in the belief that “a social order reveals itself in the way it responds to pressure” (Burawoy 1998). The following two chapters form the empirical core of the dissertation. They elucidate how labor deals with employers at the plant level by using different combinations of strategic elements and how and when such strategic elements and their combinations can effectively defend worker interests.