

Germany: tribunal hears case of victimised Opel worker

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At the end of April, the Industrial Tribunal in Bochum began to examine the sacking of two Opel workers who had been dismissed following a week-long strike last year. The two are warehouseman Richard K. and Turhan Ersin, a member of the *Betriebsrat* (works council).

Opel management accuse the two men of threatening other workers and forcing them to participate in the strike. Both defendants refute the allegations.

On October 14, 2004, thousands of Opel workers occupied the Bochum plant and brought production to a complete halt. Just before the strike, General Motors had used television and the mass media to threaten factory closures, mass layoffs and wage cuts throughout all of Europe and particularly in Germany, demanding “necessary restructuring measures” be carried out.

This public declaration of war by the company led to the spontaneous occupation of the Bochum plant, which was supported by the families of the Opel workers as well as significant sections of the population in the Ruhr area. This action, however, was opposed by the majority of the works council and the union bureaucracy. After six days, employing underhand tactics, the works council and union managed to put an end to the strike.

The way was then clear for the company to implement its demand for massive cuts in jobs and wages. The works council and union had also opened the door for management to victimise individual workers such as Turhan Ersin and Richard K. After much vacillation, the works council finally rejected the sackings. However, before ending the strike it refrained from seeking an agreement with Opel management to prohibit such victimisations, which had been standard practice in previous industrial disputes. Despite the objection of the works council, as an ordinary

employee, the sacking of Richard K. was effective immediately. However, since Turhan Ersin was a member of the works council, Opel was forced to take the case to an industrial tribunal.

Just a week before Ersin’s case was due to be heard, Opel escalated its allegations. The company submitted a second motion, stating that if the tribunal were to reject his sacking, he should nevertheless be removed from the works council due to remarks he made in an interview with the *World Socialist Web Site*. In this interview, Ersin criticised the works council and union for not doing enough to defend Richard K. against his immediate dismissal. Ersin expressed the opinion that the works council should at the very least have refused to ratify overtime working until the company revoked Richard K’s sacking.

Not surprisingly, the court case on Erin’s sacking evoked much interest among the Bochum workforce. Many of Ersin’s colleagues came to the tribunal to support him. Although the hearing was supposed to be open to the public, only around 20 of his colleagues were allowed in. The tribunal refused to provide more chairs, even though there was enough space in the room. Some 50 workers and other supporters were forced to wait on the footpath in front of the tribunal building.

Opel was represented at the hearing by a human resources manager from Bochum, as well as solicitor Dr. Markus Kappenhagen from the international law firm Baker & McKenzie LLP. Turhan Ersin was accompanied by his lawyer Michael Dornieden.

The Bochum works council also participated in the defence of Ersin, and was represented by its chairman Rainer Eienkel and a union lawyer. The works council had only decided at the last minute to attend and handed in its own written statement just one day before

the hearing began. This led to the tribunal chairman, magistrate Dieter Vermaasen, remarking as he opened the hearing that he “was of the opinion that the works council did not want to participate at all in the proceedings.”

Einenkel and his legal representative responded that they fully supported Ersin’s lawyer, Dornieden, and that is why they had not made any previous written submission to the tribunal. At the end of the hearing, Einenkel told the WSWs that he viewed the action, and in particular the second motion, as being directed at the entire works council. He said he had personally proposed to the works council, just as Ersin had demanded in his interview with the WSWs, to refuse to ratify the extra shifts demanded by Opel as long as the sackings were not retracted. According to Einenkel, this proposal was unanimously approved. He said the works council has not taken any other measures since because Opel had not asked for extra shifts. Einenkel said that everything depended on the outcome of this case.

The first day of the hearing then took a surprise turn. Magistrate Vermaasen declared at the beginning of the hearing that the tribunal had to decide upon two formal questions concerning the legal proceedings. The main issues in terms of content—what had actually happened last autumn and whether the sacking of Ersin was legal or not—could only be dealt with later on in the proceedings. This means that a final judgement is only likely to be delivered in the distant future.

The tribunal had to consider the following procedural question: the company that employed Turhan Ersin consists of three separate firms—Adam Opel AG, GM-Fiat Worldwide Purchasing Opel Germany GmbH and Opel Powertrain GmbH. This posed two questions for the tribunal. Firstly, shouldn’t the other two companies also be participating in the proceedings alongside Adam Opel AG? If this is the case, they should also be granted a legal right to be heard and be invited to attend the tribunal.

Secondly, shouldn’t the other two companies also have had to agree to Ersin’s dismissal? This question has enormous significance for this case, since an answer in the affirmative would make the hearing null and void as both of the other companies had failed to apply for an immediate dismissal within the prescribed two-week period.

The hearing only dealt with the first question.

Magistrate Vermaasen expressed his astonishment that this matter was so “profoundly disputed” by the parties. He made clear that Opel’s second motion to expel Ersin from the works council logically meant that all three relevant companies would have to participate in the case. Ersin’s lawyer agreed with this assessment, while Opel’s legal representative simply said that the tribunal should decide the matter.

The tribunal then concluded that both of the other companies would have to be formally notified and could participate in the case if they wished, but this was not compulsory. Opel were then directed to reformulate their motion in light of this decision.

The next hearing is due to occur this summer before the company’s holiday break.

At the conclusion of the session, Turhan Ersin came out of the courthouse to greet his colleagues and other visitors. He thanked them for their support and called on them to also attend the upcoming hearing of Richard K. In his interview with the WSWs, Ersin had stressed that the main issue was the fate of this colleague, who, unlike himself, did not enjoy the legal rights of a works council member and who was now unemployed.



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