European Court of Justice overturns "Volkswagen Law"

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On Tuesday, the European Court of Justice in Luxembourg declared illegal the so-called Volkswagen Law, which dates back to 1960. The law, which granted a privileged status to the state of Lower Saxony and representatives of the workforce in the running of VW, had protected Germany's largest auto manufacturer from a hostile takeover for the past four and a half decades.

The law limited the voting rights of a shareholder to a maximum of 20 percent, even if the shareholder held a higher share of stocks in the company. It permitted the state of Lower Saxony to take up two seats on the supervisory board. As the supervisory board was filled on the basis of parity, this meant that, between them, the state government of Lower Saxony, the works council and the industrial trade union IG Metall effectively determined the running of the firm.

The complaint against the Volkswagen Law was submitted in March 2005 by the European Union Commission, following a refusal by the German government to rescind the law. The chancellor at that time, Gerhard Schröder (Social Democratic Party), had sat for many years on the VW supervisory board in his function as prime minister of Lower Saxony.

The European Court of Justice concluded in its latest judgement that the Volkswagen Law violated the free flow of capital laid down in the European Union Treaty. The court ruled that the law prevented private investors from taking up shares in the company and effectively participating in its administration and control. In other words, the judges granted absolute priority to the interests of private investors over and above the interests of the Volkswagen workforce and the government.

The Volkswagen Law is the result of a compromise arising from different claims of ownership on the company. The first Volkswagen works had been established in 1938-1939 by the German Labour Front (DAF), a subdivision of the Nazi party, with funds stolen by the Nazis from the trade unions when they were crushed in 1933. Under the Nazis, the company was built and expanded with the extensive use of forced labour. At the end of the war, the company was handed over to the state of Lower Saxony by the British occupying power. The federal government, the trade unions and the VW workforce made their own claims to ownership of the company.

In 1960, Volkswagen was finally converted into a public company. The state of Lower Saxony became the principal shareholder, and the workforce and trade unions yielded up their claim for ownership. In return, they were guaranteed protection by the Volkswagen Law from domination of the company by any major shareholder.

The ruling by the European Court of Justice now clears the way for a takeover of VW by the luxury sports car manufacturer Porsche. Porsche has been preparing such a move for some time. It currently holds a 31 percent stake in Volkswagen shares and intends to raise its share to over 50 percent.

There are close links between the two companies. Porsche is owned by the families Porsche and Piëch, the heirs of auto engineer Ferdinand Porsche, who designed the first Volkswagen Beetle for Adolf Hitler. Between 1993 and 2002, Ferdinand Piëch, the grandson of the auto engineer, was chief executive at VW and since 2002 has headed the Volkswagen supervisory board. He is a major shareholder in Porsche and is regarded as the architect of the plans by the small, but lucrative Stuttgart-based company to swallow the major auto producer Volkswagen.

Although the takeover is taking place to a certain extent within family circles, it will have a devastating effect on wages, working conditions and jobs at VW. According to *Spiegel-Online*, the trade unions are afraid that as a result, "not one stone will left upon another." Following the issuing of the EU ruling, the chairman of the IG Metall union, Jürgen Peters, who personally sits on the VW supervisory board, appealed to the German government to make its "own contribution to ensure the security of jobs at Volkswagen."

In his role as chief executive at Volkswagen and on the basis of the Volkswagen Law, Ferdinand Piëch had cooperated closely with IG Metall and the works council. It was during his period of chairmanship at VW that a major scandal emerged: the chairman of the works council, Klaus Volkert, had secretly drawn an extravagant salary while the labour director at the company, Peter Hartz, controlled a fund worth millions, which was used to finance international trips, including visits to luxury brothels, and other privileges for works councils members.

In return, the workers' delegates were at the beck and call of Piëch. They agreed to the hiring of Ignazio Lopez, who had gained a reputation for his ruthless restructuring methods. On behalf of the VW board, Lopez dictated rock-bottom dumping prices to suppliers at the expense of their workforce, which was also organised in IG Metall. Union delegates supported the purchase of luxury brands such as the expensive 1,000 ps sports car Bugatti Veyron (€1.2 million), and construction of the luxury class sedan Phaeton, which resulted in huge losses for the company. At the same time, they agreed to a succession of contracts involving wage and job cuts and worsened working conditions.

Following the overturning of the Volkswagen Law, Piëch no longer feels any need to rely on the works council and IG Metall. In preparation for the takeover of Volkswagen, Porsche Holding has been transformed into a Societas Europea (SE)—i.e., a company based on European law. This move is aimed at squeezing out the current form of worker delegate participation in the company. Porsche and the Volkswagen share are to be transferred as equal subsidiaries into the Porsche SE.

The company has already struck an agreement with Porsche works council head Uwe Hück (former European champion in Thai boxing), whereby both Volkswagen and Porsche can each appoint the same number of representatives to the works council and supervisory board of the new holding. This means that the 324,000 employees at Volkswagen will have the same weight in the new company as the 12,000 employees at Porsche.

The VW works council has expressed its total opposition to this decision and taken legal action. On Wednesday, the Labour Court in Stuttgart rejected a provisional order by the Volkswagen works council aimed at preventing the entry of Porsche SE into the commercial register.

The chief executive at Porsche, Wendelin Wiedeking, who will also have a major say in Volkswagen through the new parent company, announced that in future every individual brand of auto had to make a profit. This could mean the end of the Phaeton model, which is produced at a brand new factory in Dresden, or for the Spanish Volkswagen subsidiary SEAT, which has been sustaining losses for years.

In addition, all of VW's other factories are under threat. According to *Spiegel-Online*, "At stake is nothing less than a new structure, a reorganisation of power and influence—and the fear that the production workers in Wolfsburg, Salzgitter, Emden or Mosel could be left out in the cold."

For some considerable time, the European Union Commission has been working to remove all barriers to the free flow of capital—i.e., the unhindered exploitation of workers—throughout Europe. It has already overturned national state regulations applying to airports, the post office and telephone companies, as well as oil and electricity companies. The architect of this policy between 1999 and 2004 was Dutch Internal Market Commissioner Frits Bolkestein, who also initiated the legal proceedings against the Volkswagen Law. Bolkestein is the author of the notorious Service Directive, which subordinates education, health and other public services to the creation of profit. His post has now been taken over by Irishman Charlie McCreevy.

The ruling against the Volkswagen Law will serve to intensify the onslaught currently taking place against the rights and gains of workers throughout Europe. This process cannot be countered by a return to the methods of social partnership, which characterised postwar industrial relations in Germany and which resulted in relatively high levels of income for Volkswagen workers in the 1970s. Such collaboration between management and the unions has long since been transformed into direct co-management. It is the close and corrupt cooperation on the part of the union executives and the Volkswagen works council with the VW executive committee that has paved the way for further punishing attacks on the workforce. And they will continue to discipline the workforce on behalf of the company management.

Volkswagen workers require a completely new perspective. They must unite with their co-workers across Europe to defend jobs and wages. They must struggle for a new society that places the requirements of the broad masses of people above the profit drive of shareholders and the banks.