

Germany: Court to rule on train drivers strike

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On Friday, November 2, the Labour Court for the state of Saxony is due to rule on the strike currently being conducted by German train drivers. The judgement, however, will not only affect the train drivers, but has much wider implications for the working class as a whole. The ruling by the industrial tribunal will indicate the extent to which the political establishment in Germany is prepared to overturn basic democratic rights in order to prosecute its ongoing offensive against wages and social conditions.

The court will rule specifically on an appeal filed by the train drivers' trade union—the Deutsche Lokführer (GDL). In a preliminary judgement, the Labour Court in Chemnitz had ruled that in its industrial action against Germany Railways (Deutsche Bahn-DB), the GDL had to limit strike action to regional and suburban transport. The court declared that strikes against freight traffic and the long-distance transport network would be illegal and threatened the GDL with 250,000 euro fines.

The Chemnitz court's ruling referred to the "principle of proportionality applicable in an industrial dispute" and declared that strikes against freight and the long-distance network would have severe financial repercussions and thereby cause "disproportionate damage."

Several commentaries have described this judicial ruling as "contradictory," because it allows the GDL-organised train drivers to strike, but then bars action against those parts of the railways that would exert the most pressure on DB management.

Upon closer examination, it is clear that this contradiction reveals the class character of the judicial decision. A strike in the suburban transport predominantly affects commuters—i.e., those on their way to or from work, students, etc. A strike that principally affects such social layers is more likely to contribute to undermining public support for the train drivers' demands.

Bearing in mind that most regional passengers travel

with prepaid season tickets, the economic consequences for Deutsche Bahn remain minimal. At the same time, a strike that would have consequences for business interests was banned on the basis of being "disproportionate." In other words: the GDL can strike as long as it wants, but only in a manner that does not harm the company and at the same undermines public support for its struggle.

The Chemnitz court's decision, in fact, plays into the hands of the DB management, which seeks to drag out the dispute and continue its provocative stance of failing to make any sort of serious offer to the drivers. This also explains the unusually long period between the initial court decision (October 5) and the hearing of the appeal (November 2).

Even so, DB management has gone further and lodged its own appeal against the decision of the Chemnitz court. It is seeking a general prohibition of the train drivers' strike and a repeat of an earlier decision by a labour court in Nuremberg, which this summer declared a general ban on strike action by the GDL—a temporary injunction that now no longer applies. The Nuremberg court justified its decision on the basis of the principle of so-called "tariff unity," whereby working conditions in a single factory are covered by one and the same contract agreement.

On the basis of this decision, DB management wants to force the GDL, in one form or another, to accept the same contract terms as other railway unions such as Transnet and the GDBA, which have already signed an agreement with DB. One of the main demands of the GDL has always been its rejection of the Transnet/GDAB contract in favour of its own independent contract, but the DB management has stubbornly refused to respond to this demand and insists that the GDL accept the terms accepted by Transnet and the GDAB.

The strategy of the DB management has the support of the main German business federations and the government, but over the past few days, some

commentators have raised criticisms of the proposals for a general ban on strikes by the train drivers.

On Thursday, an opinion issued by the German *Parliamentary Scientific Service* was made public that rejects the ban on strikes issued by the Chemnitz Labour Court on the basis of “disproportionality.” The findings, excerpts of which were published by several newspapers, declared that the disturbance of the smooth running of the train service was insufficient to declare such a strike “disproportional.”

“A strike would be inadmissible if thereby any sort of transport was made impossible.” This is not the case, however, given that only a small proportion of the transport of goods and persons is undertaken by rail. With regard to the issue of damage to third parties, the relevant criteria are the effects of any action on life and physical well-being. The document was commissioned by the Free Democratic Party (FDP).

Why a party like the FDP, which is committed to free market liberalism, should declare itself against a ban on the strike was made clear in a comment by its speaker on economic affairs, Rainer Brüderle. He raised the “fundamental significance of the legal case” as follows: “It could remain the lasting service of the GDL to have broken apart the contract cartel of the monopoly trade unions. In contract bargaining, we need more flexibility and the possibility for solutions based on specific professions. The period in which single large trade unions could lay down wage levels, is now past.” The constitutionally protected freedom of assembly does not only apply to the former monopoly trade unions.

This comment makes clear that even if the Saxony court rules in favour of the GDL’s appeal and lifts the ban on strike action against freight and long-distance transport, the campaign against the right to strike will continue.

There are differences within the German ruling class over how best to counter growing public opposition to wage and social cuts. Up until now, it has relied on the German Federation of Trade Unions (DGB) bureaucracy, which has accepted a series of concessions and imposed them on the workforce. Unions such as the industrial union IG Metall have agreed to attacks on working conditions and wage cuts for auto workers, while the service union Verdi has accepted punitive cuts for Telekom workers and public service workers. The head of Deutsche Bahn, Hartmut Mehdorn, has also relied on the DGB trade union Transnet in his campaign to crush the GDL.

Brüderle and the FDP, on the other hand, are of the

opinion that the DGB has served its purpose and is now dispensable. The DGB unions have worked systematically to sell out their own membership, and now sections of the ruling class believe the time is ripe to isolate and break militant layers of workers such as the train drivers.

The German Employers Federation is currently supporting the former head of the German Employment Agency, Florian Gerster (SPD), who now heads a private postal agency and is seeking to set up a yellow trade union, which is ready to accept cheap wage rates. According to Gerster, the minimum wage level worked out between Deutsche Post and Verdi (between 8 and 9.80 euros) is too high, and he is campaigning for a wage rate of 7.50 euros.

For the train drivers and the entire working class, the defence of the right to strike is not just a tactical issue, but rather a question of principle. The previous judgements by the courts in Chemnitz and Nuremberg represent a major attack on the right to strike. If a judge is able to arbitrarily ban a strike on the basis that it is “disproportionate,” then the right to strike exists only on paper. The only permissible form of action would be purely symbolic strikes, which do not have any economic consequences—i.e., strikes that are completely impotent.

The right to strike is a basic democratic right. It is directly derived from the constitutional guarantee of contract autonomy—the right to establish agreements free of any interference from state bodies. The attempt to overturn this right through legal action indicates the determination of those political forces in Germany for whom constitutional rights increasingly represent a hindrance.

The defence of the right to strike requires the mobilisation of all workers in support of the train drivers’ strike. While the DGB and a number of its affiliated trade unions have warned against any further attacks on the right to strike, their remarks are utterly cynical. One cannot defend the right to strike and at the same time campaign against the train drivers’ action—as the DGB has done. In fact, it was the campaign conducted by the DGB to isolate the train drivers that encouraged the courts to make their initial rulings against the strike.



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