

German unions and employers unite against the right to strike

Dietmar Henning
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At the beginning of June, Michael Sommer, leader of the German Trade Union Association (DGB), and Dieter Hundt, president of the German Employers Association (BDA), jointly presented draft legislation enshrining the principle of a “unitary contract”. Its purpose is to suppress workplace labour disputes. Seldom before has the DGB so clearly posed as an industrial police force in the interests of the employers.

The draft provides that only one collective agreement can apply in a workplace. “If several collective agreements of different trade unions exist in an enterprise”, Sommer said at the launch of the joint text “the collective agreement that would apply is that concluded by the majority union, which has the most members in the workplace”.

He added that this was to prevent a collective agreement of the union with the most members being supplanted “by so-called ‘special’ collective agreements by individual sector unions”. He then came to the crucial point: If the majority union had concluded a collective agreement, the no-strike rule would then also apply to any union that represented a minority of the workforce. “Industrial action is excluded during the term of a contract concluded by the majority union”, he stressed.

Sommer did not go so far as to exclude altogether the signing of several collective agreements by different unions. That would clearly be contrary to the constitutionally guaranteed freedom of association. However, the prerequisite for such contracts should be “that the employee groups do not overlap and that the contract parties are agreed”. In other words, smaller unions may only reach collective agreements for individual occupational groups—such as hospital physicians or train drivers—if the competent DGB union and the employers give their prior consent.

Sommer made it unmistakably clear that the joint initiative aims to nip in the bud potential opposition to the consequences of the economic crisis. In the midst of a severe financial and economic crisis, he said, “citizens now needed a signal that not everything is falling apart”. They were looking for an “anchor of stability that offers them security”. The joint initiative of the DGB and BDA provided such an “anchor of stability”.

“Trade unions and employers’ representatives take up their responsibilities in the crisis. They are working together, where this is possible and necessary”, said the head of the DGB.

“They jointly search for solutions when problems arise and support politicians, where appropriate and necessary”. Social partnership had proven itself and had now to be continued in ensuring a unitary contract in the workplace.

BDA President Hundt also stressed that the joint initiative serves to prevent labour disputes in the workplace. A unitary contract was “indispensable, because we cannot afford repeated and continuous labour disputes in the workplace”, he said.

Sommer and Hundt had already jointly presented their proposal to Chancellor Angela Merkel, and said they were confident it would receive political support from the government.

Sommer tried to justify the joint approach by claiming that the principle of “one workplace—one contract” ensured solidarity in the workplace because it prevented “individual parts of the workforce being played off against each other”.

In reality, the DGB unions’ virtual sovereignty in contract bargaining has served for years to impose restrictive contracts, which workers cannot oppose. For example, the service union Verdi has signed a series of agreements cutting wages, imposing overtime and job losses in the public sector. The largest industrial trade union, the IG Metall, has done the same; all the contracts imposing wage concessions, job cuts and other “sacrifices” in the auto industry bear its signature.

Resistance against this has arisen on several occasions in recent years. Usually this came from more conservative unions representing certain professions—from associations such as the GdL (train drivers), Cockpit (pilots), UFO (flight attendants) or the Marburger Bund (hospital doctors).

In 2008, a strike by GdL members temporarily paralyzed the railways. The strike was aimed directly against the policies of the DGB union Transnet, which had agreed to wage cuts, job losses and deteriorated working conditions in order to make Deutsche Bahn “fit” for a launch on the stock exchange. The train drivers’ strike was widely supported. In contrast, the action was vociferously opposed by Transnet, the rail officials union GDBA, the media and the political parties, including the Left Party. The GdL finally capitulated because it was not willing to stand at the head of a mass movement against the austerity policies of the government.

It is significant that the Transnet and GDBA rail unions,

which had organized strike-breaking two years ago against the train drivers, enthusiastically welcomed the proposals of Sommer and Hundt. “A unitary contract means solidarity in the workplace and in society”, proclaimed Alexander Kirchner and Klaus-Dieter Hommel, the chairmen of the two unions. Especially in this day and age it was an “important factor to protect the interests of all employees of every company”, they said.

Sommer and Hundt’s initiative is aimed not only against competing unions like the GdL, Cockpit, UFO or the Marburger Bund, whose perspectives do not differ fundamentally from those of the DGB, despite tactical differences. Much greater is their fear that a truly independent social movement might develop in the factories and workplaces against the employers’ attacks and the government’s austerity measures.

This legislative initiative is meant to put a stop to such a development. By legally enshrining the principle of a unitary contract and the imposition of a no-strike rule, the DGB and BDA want to ensure that in future confrontations with rebellious workers they have the courts and the state apparatus on their side.

The immediate reason for the initiative launched by Sommer and Hundt was an announcement by the Federal Labour Court (BAG) in January that it will be changing its legal approach to issues of a unitary contract. In the past, the court had generally ruled in favour of a unitary contract, although there was no statutory basis for this. Now it wants to permit several collective agreements of different trade unions for the same occupational groups.

The specific case at issue makes clear the direction of the initiative launched by the DGB and BDA. A hospital doctor belonging to the Marburger Bund has brought a case before the BAG. He is seeking redress against being financially worse off as a result of the TVöD—a collective agreement reached by the DGB-union Verdi and covering the public sector. The Marburger Bund had not signed up to the TVöD but invoked the *Bundesangestelltentarifvertrag* (Federal Staff Contract, BAT), which had applied until then and grants its members a better wage. It appears that the Federal Labour Court will soon decide in favour of the plaintiff, and the legislative initiative of the DGB and BDA is directed against this outcome.

The initiative is supported by the Left Party, whose chair, Klaus Ernst and general secretary, Werner Dreibus, welcomed “the initiative of the DGB trade unions” on the same day in a press statement. It comes at the right time, they said. They justified their shameless support by completely twisting the facts.

Firstly, they did not say that it was a joint initiative also supported by the employers. Secondly, despite facts pointing to the contrary, they claimed the initiative was directed against the “yellow” unions controlled by the Christian Democratic Union (CDU) or the employers’ associations. “Those who want to

place in question the principle of a unitary contract, wittingly or unwittingly open the door to wage dumping”, claimed Ernst. And Dreibus added, “If the Federal Labour Court tries to overturn the principle of a unitary contract, it becomes the enforcer of those who push down wages”.

What is actually involved was also shown in a further remark by Sommer und Hundt, as reported in finance daily *Handelsblatt*. Both warned against “British conditions” that existed in the 1970s.

Britain at that time was marked by violent class struggles. The working class had gained some massive wage increases in large-scale strikes. In 1974, it forced the Conservative government of Edward Heath to resign. The Trades Union Congress (TUC), the British equivalent of the DGB, and the Labour Party for a long time were unable to bring the movement under control. In 1978/79, in the so-called “Winter of Discontent”, workers turned against the attempts of the Labour government under James Callaghan to impose the austerity measures demanded by the International Monetary Fund.

“The widespread actions by the professional unions—the train drivers, pilots, flight attendants and others—was probably only a foretaste of a development similar [to that in Britain] in Germany, Sommer and Hundt feared”, reports the *Handelsblatt*.

Finally the betrayal of the Labour Party and unions in Britain prepared the ground for the electoral victory of the Conservatives under Margaret Thatcher, who, with the support of the TUC leadership, smashed the power of the unions. A Conservative Party strategy paper at the time read, “Resolving the problem of the unions is the key to Britain’s recovery”.

In warning against “British conditions”, the DGB puts itself in the tradition of Thatcher, but prefers to take over the task of quelling the movement itself, rather than leaving it to the government. The joint legislative initiative with the BDA marks a further stage in the transformation of the DGB into an instrument of oppression for the state and big business.

In doing so, the DGB has no regard for democratic rights. According to prominent jurists, the legal initiative is incompatible with the freedom of association enshrined in the United Nations, the European Convention on Human Rights and the German Constitution. Article 9, paragraph 3 of the German Constitution expressly grants everyone the right “to form associations to safeguard and improve working and economic conditions”, which in turn have the right “to conduct industrial disputes”.



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