

# German court bans pilots strike

Ulrich Rippert  
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Just hours before they were due to go on strike last Wednesday, in a ruling on Tuesday evening the Frankfurt Labour Court banned the pilots' union Cockpit from taking action. In her ruling, Presiding Judge Frauke Denecke said the issues were not concrete enough to justify a strike, from the perspective of the court.

The court has accepted the reasoning of the management of Air Berlin, the second largest German airline, which had previously sought an injunction against the pilots' strike.

The dispute between Cockpit and Air Berlin over pilots' working conditions has been dragging on for more than a year. The issues involved include improved service, rest and standby times. Negotiations have been ongoing over uniform working conditions for all pilots of the Air Berlin Group, which has included its long-haul division LTU since 2007.

After the pilots belonging to Cockpit voted in mid-August for strike action, Air Berlin management made a number of concessions, which were then written into a so-called preliminary agreement. According to the pilots union, there was agreement on "key points". Among other things, there was to be a gradual equalising by 2013 of the working conditions of Air Berlin pilots to match the better level of those working for LTU.

However, in the preparation of the final collective agreement, differing interpretations of the preliminary agreement arose. Management had suddenly and unexpectedly moved away from the already agreed benchmarks, said Cockpit spokesman Jörg Handwerg.

In a ballot on October 15, a majority of Air Berlin and LTU pilots opposed the content of the preliminary agreement. Since then, the pilots are no longer bound by the no-strike clause in the existing contract. Earlier, in March 2010, warning strikes were only averted at the last minute because Cockpit had held out hopes of concluding a settlement.

In court, Air Berlin argued that the strike ballot had only been over one part and not over the whole package that had been negotiated in late August. From the company's

perspective, the ballot was void, said Air Berlin spokesman Peter Hauptvogel.

The Labour Court in Frankfurt upheld the application from Air Berlin for an injunction, but justified the decision differently. It claimed that Cockpit, as evidenced by their November 18 decision to strike, was pursuing an "illegal strike objective". This involved the demand for the conclusion of a contract for "larger flight crews", according to which the cockpit crew should be reinforced on long-haul flights above a distance of 4,200 nautical miles to reduce physical and mental stress.

But as no Air Berlin pilots currently undertook such long-haul distances, the court reasoned there was no need for the matter to be dealt with contractually. According to the court, however, the pursuit of this one objective was sufficient to make the entire strike illegal.

Presiding Judge Frauke Denecke called on both parties to undertake further negotiations, but left no doubt that she regarded the union's demands as excessive.

A look at Judge Denecke's career and her commercial activities throws light on the much-vaunted impartiality of the judiciary. She has been a judge at the Frankfurt Labour Court since last year, and was previously at the Offenbach Labour Court. Her biography states: "Frauke Denecke has taken over the representation and advising of employers in the area of labour and employment law at the law firm Lovells in Frankfurt."

She regularly delivers well-paid lectures for managers and decision makers, for example, under the auspices of Managementcircle.de. Her most recent lecture given in early November in Cologne and early December in Munich was titled, "How to conduct successful work processes".

The Frankfurt ban on the pilots' strike must be seen in a broader context. None of the major German unions have condemned the decision as an attack on the right to strike. On the contrary, they secretly welcome the decision. For months, the German Trade Union Federation (DGB) has sought to enforce its claim to be the "sole representative" in the workplace, in an attempt to freeze out competing

unions that represent certain occupational groups such as the train drivers' union (GDL), the doctors' union Marburger Bund, and the pilots' Cockpitunion.

In early June, DGB leader Michael Sommer and employers' federation President Dieter Hundt spoke in unison when they presented a joint paper on "uniform collective agreements". The explicit objective of this joint initiative is to suppress industrial action in the factories. Seldom before has the DGB so clearly posed as an industrial police force in the interests of the employers.

Sommer said that in principle, only one collective agreement should apply in a company. His exact words were: "If several collective agreements of different trade unions exist in an enterprise, the contract concluded by the majority union with the most members in the company should be the one that applies."

This was to prevent the collective agreements of the union with the most members being supplanted "by the conclusion of so-called 'special' collective agreements by individual sector unions", he added. He then came to the crucial point: If the majority union has concluded a collective agreement, the no-strike rule would then also apply to any union that represented a minority of the workforce.

The majority union amongst the 8,700 Air Berlin employees is Verdi. The Frankfurt court ruling is a fundamental attack on the right to strike. At the same time, it serves to increase the pressure on the pilots' union Cockpit and to strengthen the grip of Verdi on workers in air transport.



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