

German labour minister presents legislation on comprehensive pay agreements

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On October 28, German Minister of Labour Andrea Nahles (Social Democrats, SPD) presented a draft of a law on comprehensive pay agreements. The draft law is currently being considered by the various ministries and is set to be adopted by the cabinet on December 3. The parliament is then to adopt the law no later than mid-2015.

The principle of comprehensive pay, according to which only one contract can apply to each professional group at a workplace, was overturned by the German labour court in 2010 because it violated the rights of the workers to freely form associations as protected by the German constitution. Since then, employers' associations, in close collaboration with the German trade union confederation (DGB), have been attempting to enforce comprehensive pay in a special law.

German Chancellor Angela Merkel promised the employers' associations such a law in 2011, but it repeatedly failed because it conflicted with the constitution.

Article 9 of the German constitution provides "for everyone and for every profession, the right to form associations to realise and promote working and economic conditions." This right clearly no longer exists if only one trade union, generally the DGB, is allowed to conduct pay negotiations and organise strikes at one company.

The DGB would then assume a monopoly position, or act as a compulsory union like the German labour front under the Nazis or the FDGB in East Germany. Since the DGB unions have been cooperating closely with the employers, and every layoff and pay cut bears their signature, this would amount to the elimination of the right to strike and form associations.

Smaller unions like the GDL (train drivers), Cockpit (pilots), and the Marburger Bund (doctors), which are

the target of the new law, have benefited from an intake of new members precisely because they have organised strikes to push for wage demands and other issues.

Before the media, Nahles went to great lengths in her efforts to deny that the draft law was a clear violation of the constitution. It proposes that in the case of competition between two trade unions at one firm, the majority principle will apply. If two or more trade unions cannot agree on a negotiated agreement, the agreement from the union with the greatest number of members would apply.

If the membership numbers are not clear, each trade union has to confirm its total membership at the company to an arbitrator. As a last resort, the labour court would have to decide which union represents the majority of the workforce and if a strike is legitimate. The law merely grants the smaller trade unions the right to "present their ideas and demands verbally" to the company.

Nonetheless, Nahles insisted that "the right to strike remains untouched." She then contradicted herself in the next breath, declaring with reference to the current disputes involving train drivers and pilots that "future contractual disputes (could) develop differently."

"With this law, we are strengthening the valued and good principle of social partnership, we are strengthening autonomous agreement," she said, meaning the close collaboration of the unions with management against the workers. The law created possibilities to "resolve conflicts between trade unions and in companies where comprehensive agreements with various trade unions collide."

Trade unions could continue to consult, form agreement associations and conclude joint agreements, asserted Nahles. But if they are "unwilling, I need power" and the new law would intervene.

The chairman of the Marburger Bund, Rudolf Henke (Christian Democrats, CDU), was explicit about the meaning of the law. In reality, the right to strike, in contrast to what has been previously announced, is to be severely restricted, he said. “If the comprehensive agreement of the largest trade union only applies, then all employees at the company are bound by the obligation under the agreement to maintain labour peace.”

According to Henke, it is not important that the right to strike is not explicitly mentioned in the law. “According to the highest legal opinion, a workers’ struggle is only justified if it is directed at enforcing a goal that can be regulated by a comprehensive agreement, meaning the conclusion of a collective agreement,” he said. If the Marburger Bund were compelled to adopt the status of a minority union, whose agreements no longer applied, “we would be compelled to keep quiet.” A call to strike would then be illegal.

The elimination of the right to strike was deliberately being denied to avoid any danger of losing DGB backing for the law, Henke asserted. In reality, it is being denied so that the DGB, which supports the law just as much as the SPD, can save face.

The unions are trying to sell comprehensive pay agreements as an expression of the workers’ solidarity to do the same work for the same pay. The cynicism of this argument is clear by reviewing real conditions at companies and in public administration. As a result of the Hartz laws of former chancellor Gerhard Schröder (SPD), employees do the same work but are on dozens of different contracts, including permanent employees, temporary workers, contract workers or freelancers. Newly hired staff often receive only a fraction of the wages of their older co-workers.

Comprehensive pay agreements are only being raised when dealing with the banning of strikes for improved wages and working conditions. But as a means to cut wages and divide workers, differing contracts are rife.

The president of the employers’ association, Ingo Kramer, was suitably satisfied with the draft law. Companies had to be able to ultimately rely on not being exposed to the risk of a strike at any time by a small trade union. Rainer Dulger, president of the industrial employers’ association, expressed a similar opinion, warning that the law had to “fulfil a reliable

peacekeeping function,” and prevent small minorities from bringing entire companies or branches to a halt.

There are few countries globally where strikes are as rare as in Germany. According to estimates by the economic and social institute (WSI) of the DGB-aligned Hans-Böckler Foundation, only 16 workdays per 1,000 employees were lost to strike action between 2005 and 2012 in Germany. According to the federal labour agency, it was only four workdays. By contrast, in France 150 days were lost for every 1,000 workers, in Canada 117, in Denmark 106, 73 in Belgium. In Britain it was 26 days.

The German government is preparing major attacks on the rights and social achievements of the working class. That is the reason for the new law. They have exploited the strikes by train drivers and pilots in recent weeks, as well as the storm whipped up by the media, to rush through the law, which had already been agreed in a coalition agreement between the SPD and CDU.

The SPD Duisburg representative in the state parliament and former district leader of the DGB, Rainer Bischoff, demanded during the last train drivers strike that “the egoism of the profession-based trade unions must stop. The law on universal pay agreements must be brought in.”



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