

# Germany: ThyssenKrupp workers force union-dominated works council to resign

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Workers supporting the opposition “List 5” have succeeded in their challenge to the result of the works council elections last year at steelmaker ThyssenKrupp Steel. The works council election must now be repeated. The existing works council, dominated by the IG Metall union, has announced it will resign on March 26.

In collaboration with IG Metall works council members, company representatives tried to intimidate the opposition List 5 before the works council elections last year. Just before the elections, several team leaders held individual meetings with those standing on the list. Supervisors threatened list candidates with disciplinary action and the loss of their jobs, allegedly because of a lawsuit against one of the members due to racist remarks. In fact, there has never been such a legal suit.

IG Metall works council member Wolfgang Klein then repeated the version of events provided by the team leader. He pulled out several pre-completed forms and demanded workers then sign up to indicate their withdrawal from List 5.

Four members of List 5, including list leader Fred Wans, then challenged the works council elections in the Duisburg Labour Court, which found in their favour. In response, both management and the IG Metall works council lodged an appeal to the higher court. Last Friday, the State Labour Court in Düsseldorf supported the decision of the Duisburg Labour Court and dismissed the appeal.

At the beginning of the trial, Uwe Mailänder, the presiding judge, did not hide his astonishment at the spectacle before him. On one side were representatives of the works council and management sitting at the same table, on the other side, Fred Wans.

The judge initially established the facts. He cited the testimony from the Duisburg Labour Court of a worker

who had presented the exact sequence of events and content of the individual conversation with his team leader, Rainer Droese. The judge stressed that this testimony clearly established a connection between the threat of disciplinary consequences and withdrawal of candidates from the list.

In his legal assessment of the case, he cited paragraph 20 of the Industrial Constitution Act and quoted from section 2: “No one may influence the election of the works council by threats of harm or by granting or promising benefits.”

He pointed out that it did not matter whether the threat had actually occurred. What was crucial was the subjective perception of the person concerned, in this case, that disciplinary consequences were threatened if he maintained his candidacy, or he might even lose his job. The way the judge then discussed the actions of works council member Klein and his pre-prepared withdrawal statements made clear that he would reject the appeal.

The lawyers for the works council and ThyssenKrupp Steel then tried to raise fundamental doubts about the right to democratic works council elections independent of the corporations and the existing works council members. The ThyssenKrupp Steel lawyer went so far as to say that on the basis of “subjective perceptions any election can be retrospectively called into question”. The judge rejected this.

During a break in the proceedings, the representative of the ThyssenKrupp Steel Human Resources Department spoke of “legal action-itis”, as the election at the factory in Bochum was also being subjected to legal challenge.

ThyssenKrupp Steel group works council chairman William Segerath, who is also an executive board member of IG Metall, then expressed his own

undemocratic position. It was “impossible” that every election could always be challenged, he said.

As a full-time works council member for three decades, Segerath is in and out of the company boardroom. He has sat on the ThyssenKrupp Steel supervisory board since 1999, and has been royally rewarded. According to the company’s Annual Report 2013/14, his supervisory board compensation increased to €105,000 from €99,000 the previous year. His union colleague Oliver Burkhard transferred from being North Rhine-Westphalia regional head of IG Metall two years ago to become ThyssenKrupp head of personnel, increasing his annual income to €2.3 million, according to the annual report.

During the proceedings, the ThyssenKrupp Steel lawyer took up Segerath’s argument and declared that the question of challenging elections would probably be better clarified before the Federal Labour Court. The hurdles for disputing a works council election were far too low, he said, and subjective perception could not be made the determining factor.

The judge also rejected this suggestion and did not agree to an appeal to the Federal Court. At the same time, however, he offered a compromise. He wanted to waive making any ruling if the works council, the company, and List 5 were all agreed. He told list leader Wans that otherwise the date of the court’s decision would leave the ThyssenKrupp Steel plant in Duisberg without a works council. Should all parties agree, and the works council resigns within a short period of time, the subject of the first proceedings before the Duisburg Labour Court could be dropped.

After consultation with some members of List 5, Wans declined the offer, saying that he insisted upon a decision by the court. Judge Milan was obviously surprised and displeased at this position. Wans agreed, however, to give the works council the opportunity to resign so that the company and its 13,400 employees were not without a works council in the period leading up to the election. He feared that the company might otherwise take decisions detrimental to the interests of workforce during this period.

After Segerath clearly reluctantly said the works council would resign on March 26, the judge postponed announcing his ruling until May 22. Elections will then be held at the beginning of June.

The decision of the Düsseldorf Regional Labour

Court against the IG Metall works council and the company once again highlights the role played by the union. Over recent decades, the largest union in the world, as it likes to call itself, has become the intimate ally of management, not only at ThyssenKrupp Steel, but in every company.

It has long ceased to represent workers’ interests and acts instead as an advisory agency of the company in order to increase competitiveness and profitability. It praises itself as a “profit-oriented undertaking” and is hostile to the interests of the workers.

According to a report in *Wirtschaftswoche*, IG Metall has assets estimated at over €2 billion, which it increasingly invests in equity shares of companies.

Some 1,700 IG Metall representatives sit on company supervisory boards, where they are rewarded handsomely and merge seamlessly with management. About 50,000 works council members and 80,000 shop stewards exert strict control over workers in the workplace. Wage cuts and job losses are often prepared directly in union headquarters and then enforced against the workers, as was very clear at GM-Opel in Bochum.



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