

German Labour Court declares air traffic controllers strike illegal

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The federal Labour Court in Erfurt on July 26 declared a strike by air traffic controllers to be illegal. The air traffic controllers union GdF must now pay millions in damages to the airport operator Fraport AG following the strike in February 2012.

In February 2012, ground controllers held a nine-day strike at the Rhein-Main airport to enforce an arbitrator's decision that granted them their own contract with better pay and shorter working hours. Ground controllers are airport employees who coordinate ground traffic and accompany aircraft prior to take-off and after landing as guides or "follow-me" drivers.

Fraport AG did not want to accept the arbitrator's decision presented, even though they appointed an arbitrator, CDU politician Ole von Beust, and went to court against the strike as it took place, as well as claiming for damages.

The Verdi trade union, a member of the German trade union confederation DGB, and its works council chair at Fraport, Edgar Stejskal, stabbed the workers' struggle in the back and declared their solidarity with Fraport labour director Herbert Mai, a former union leader of the ÖTV, the predecessor to Verdi. Stejskal denounced the strike of a "splinter group" as "detrimental to social peace."

During the strike, a Labour Court ruling in Frankfurt declared the strike to be illegal because some of the demands remained subordinate to German labour laws restricting industrial action. The controllers' trade union (GdF) subsequently halted the strike and called off a planned strike by tower-based air traffic controllers. They had intended to join the strike in solidarity with their ground-based colleagues.

The bargaining dispute was ultimately concluded in March 2012, when GdF and Fraport agreed on a new contract for ground controllers, on terms much worse than the original demands.

In addition, Fraport demanded damages of €5.2 million,

and received backing for its demand from Lufthansa and Air Berlin, who also intended to go before the courts to claim damages for cancelled flights. As a result of the February 2012 strike up to 1,700 flights were cancelled.

In March 2013, the Frankfurt Labour Court decided in favour of the GdF and rejected calls for damages. The Frankfurt judges ruled at the time that even though the strike had only been about the wages of 200 ground controllers, it had not been, as the plaintiffs claimed, disproportionate. It had been "far from" threatening the existence of the affected companies, Fraport and Lufthansa, and the strike had not threatened the general well-being of the public at any point. The impact of the subsequently announced solidarity strike by tower-based controllers on the airport could not be determined, because it ultimately never took place, the judges ruled.

The Hesse Labour Court confirmed this ruling six months later. The second legal opinion explicitly rejected the claim that the ground controllers' strike had been illegal and added that even the formal error of breaking the collective agreement during a period of labour peace did not change the fundamental course of the strike.

This has now been decisively overruled by the First Senate of the Labour Court in Erfurt under court president Ingrid Schmidt. The complaints of Lufthansa and Air Berlin, against whom the strike was not directed and who were affected only indirectly by it, were dismissed, but Fraport AG was ruled to be entitled to pursue its financial damages claim in the relevant state labour court in Hesse.

The Erfurt ruling is a major attack on the right to strike, and particularly for small, profession-based unions. Paying millions in compensation to Fraport could threaten the very existence of a union like the GdF, which has only 4,000 members. The latest Federal Labour Court ruling goes far beyond all previous judgements. The online web site airliners.de wrote, "Compensation payments for damages by trade unions as a result of labour struggles

have generally been the exception in Germany.”

The ruling represents a paradigm shift. All previous judgements on the issue considered the formal error of the GdF as a “matter of detail.” The Frankfurt labour court, which brought an end to the strike with its February 2012 ruling, even suggested avoiding issuing any ruling if the contract partners would get together and resume negotiations. The court saw no need for the immediate break-off of the strike, which was only due to last another day. This was only contradicted at the time by the company side.

At the time, Thomas Ubbert, the lawyer for the complainant firms, threatened the GdF with “possible elimination,” as *airliners.de* reported. GdF leader Matthias Mas correctly pointed out that a trade union “facing millions in damages for every small detail” could no longer freely decide on the realisation of workers’ interests.

For over a year, the right to strike has been under intensified attacks from the major concerns, government and DGB trade unions.

In May 2015, the federal parliament passed a contract unity law. It is directed against the profession-based unions and states that collective agreements in a sector where there are more than one trade union need only be concluded with the union which has the most members among the same group of employees. The law was tabled by labour minister Andrea Nahles (SPD) and sought to suppress all independent initiative in the workplace with the help of the DGB unions.

Strikes in the air traffic control sector have proven particularly troublesome for airline companies. The business head of the federal association of German air traffic concerns (BDL), Matthias von Randow, announced several months ago he would intervene strongly to ensure that every strike by air traffic controllers would be thwarted by arbitration.

In January 2016, Irish airline company Ryanair initiated an online petition to secure a ban on all air traffic controllers’ strikes in the European Union by the European Commission. The result of the petition, titled “Keep Europe’s skies open,” remains unclear.

The greatest threat to the right to strike and all workers’ rights comes from the trade unions themselves. They have subordinated themselves completely to the capitalist system and see their main task in suppressing the class struggle. The DGB unions, such as Verdi at the airports, have long sacrificed the goal of equal pay agreements and decent working conditions for all employees to the

economic interests of the airline companies. In the name of competitiveness, they allow companies such as Fraport and Lufthansa to impose layoffs and wage dumping, and to transfer a growing number of sectors to private contractors, where workers have absolutely no representation of their interests.

The experience of the ground staff in particular, hundreds of whom are poorly paid contract workers responsible for loading, guarding and cleaning planes in all weathers, putting their health at risk, provides an insight into the decades-long sell-out of the unions.

It is no coincidence that Ingrid Schmidt was appointed as a judge to the Labour Court in the mid-1990s at the suggestion of the SPD and trade unions. As president of the court, she delivered the keynote address at the end of last October at the German works council awards, in which she praised co-determination and the work of the works councils.

But the profession-based unions in Germany offer no alternative. The GdF, UFO, Cockpit association, the doctors’ Marburger Bund union and the recently established airport union IGL all emerged as a reaction to the betrayals of the DGB unions. However, they all share the DGB’s nationalist, pro-capitalist perspective.

The profession-based unions concentrate solely on a specific group of workers and turn a blind eye to the international political developments driving the attacks. For example, none of the unions in Frankfurt reacted to the strikes by air traffic controllers in France or Belgium two months ago.

The WSWS referred over a year ago to the connection between the introduction of the contract unity law and the return of German militarism. The WSWS wrote at the time, “It would be an illusion to believe that profession-based unions or greater militancy can defend the interests of the workers. While opposition to the corrupt machinations of the trade unions in industry is growing, it is becoming clearer every day that the struggle against layoffs and social cuts is directly bound up with the fight against militarism and war.”



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