

Frankfurt Labour Court rules against sacked WISAG bus drivers

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At the end of June, the Frankfurt Labour Court heard the unfair dismissal case of 22 airport bus drivers against the WISAG group. As it turned out, the workers are not only confronted with the capitalists, the establishment parties and the trade unions in their struggle against spin-offs, dismissals and wage robbery, they also cannot rely on the legal system.

Thirty-one bus drivers lost their long-term permanent jobs at Rhein-Main Airport in October last year after the services provider shunted them into Sky City Bus GmbH, a specially created dummy company, as part of a “transfer of operations.” Anyone who did not accept this was dismissed and wage payments were stopped with immediate effect.

One complainant, bus driver Peter M., who now works for Sky City Bus, explained to the WSW what the change meant for the workers. “At Sky City Bus I have real disadvantages,” he said. “I used to have 30 days holiday, now I only have 25. Holiday pay is gone, I also don’t get a Christmas bonus or an annual bonus. And the monthly salary is also less.”

His contract with Sky City Bus is initially for one year. During this year, the WISAG company is theoretically obliged to guarantee him the old wage or to make up the difference. But he already had to sue for his annual bonus. Like the others, he is suing for continued employment at WISAG under the old conditions.

All this was of little interest to the judge. Her main concern was to negotiate partial settlements on unresolved questions of detail to settle the relevant claims and bring the proceedings to a conclusion as quickly as possible. Written judgements are still to be made.

“The judge and the lawyer of the other side are in cahoots,” was the bitter comment of several workers coming out of the court. “Our side did not come to the hearing at all. It was like talking to a wall.”

“WISAG is probably too powerful in Frankfurt; presumably they also have influence in the court,” those standing outside concluded. They drew attention to a notice at the court canteen: there, too, an official notice bears the logo of the WISAG group. WISAG is also a service provider at the labour court, as it is throughout the city.

As for the judge, Dr Jana Kraus, a few years ago, she was still working as a business lawyer at one of the best-known law firms, Clifford Chance. Wikipedia lists Clifford Chance as one of the “Magic Circle” of the five London law firms with the highest turnover.

Even while still a judge at the Frankfurt Labour Office, Jana Kraus took part in educational seminars for business executives as a speaker together with ex-colleagues from Clifford Chance, as can be seen from an advertising brochure of the Management Forum Starnberg GmbH.

There, her practical experience as a labour judge in Frankfurt was explicitly highlighted. It went on to say: “Before that, she worked for several years as a lawyer and labour law specialist (...) in the Frankfurt office of the law firm Clifford Chance, where she advised German and international companies in all areas of individual and collective labour law.”

One such seminar was on “legal pitfalls for drafting employment

contracts,” another on “termination of employment,” etc.

In the courtroom, Judge Kraus worked closely with the law firm representing the defendant, WISAG Aviation Ground Service. WISAG is represented by the law firm Schweibert Leßmann & Partner, about which the business law website juve.de says, “The employment law boutique, which is active in Frankfurt and Berlin, has developed into one of the most relevant figures for the employment law support of large-volume transactions.”

The firm has already represented Lufthansa in the sale of LSG Sky Chefs and advised numerous corporations, including Sanofi-Aventis, Unilever Deutschland, several banks, the German Marshall Fund, “automotive suppliers on plant closures” and now WISAG Aviation. In the courtroom, the firm’s top lawyer, Dr Ulrike Schweibert, spoke on behalf of the defendant.

Like “speed dating,” is how the workers describe the mass processing, when 22 bus drivers, the actual plaintiffs, under the guidance of their lawyers, appeared like supplicants before the judge and the business lawyers. The cases of severely disabled people were also tried in the course of this fast-track process. One of the lawyers called it “arbitrary treatment in the service of the employer.”

Various lawyers represented the workers individually or in groups, some acting on behalf of the IGL sectoral trade union, others hired privately by the workers. Lawyer Hans Wüstehube, who represented six bus drivers, told those outside the court, “This trial is about getting rid of people because they are too expensive. The judge is in charge of the proceedings, but she represents the employer here, like 100 years ago, and the two lay assessors sitting next to her say nothing.”

In the third trial, which the author of this article was able to listen to, the judge dismissed the unfair dismissal claims almost in passing in a few sentences. They had probably been invalidated by the transfer of operations from WISAG to Sky City Bus, she said. WISAG had made the business decision to no longer employ bus drivers at the airport. As a result of this decision, the judge said, the jobs had been eliminated and the employment relationships had been transferred to Sky City Bus. “The court is already asking the question: does this not mean that there is no need for legal protection?”

Attorney Wüstehube raised another question in court, namely about the company Sky City Bus. “What kind of company is that? The managing director comes from WISAG, and the orders come from WISAG. It has no buses of its own, no money of its own, no contracts of its own. It drives the buses from WISAG, which it has taken over.” Sky City Bus did not exist before March 2020, he said. Even the rosters had been prepared by WISAG and the journeys logged on WISAG forms.

“This is not a serious business decision,” the lawyer concluded. It was very clear from his words that Sky City Bus is a dummy company, an unofficial WISAG subsidiary whose sole purpose is to squeeze the workers’ conditions.

Wüstehube also said, “We don’t feel that the defendant has abandoned

the bus services.” He presented job advertisements from WISAG explicitly seeking bus drivers for ground services, alongside “employees for aircraft handling and transport services.”

About the dismissed workers, the lawyer said, “These workers have done a variety of jobs at the airport. They know all the goings-on at the ramp, from transporting passengers in the buses to loading suitcases and cargo, to pushback. They have done it all for many years.”

WISAG, on the other hand, “has only been at the airport for a short time, only three years, unlike the workers, who have been familiar with the airport for fourteen or twenty years.”

He pointed out that, in particular, the duty of social selection had been violated. “Here bus drivers were dismissed who had already worked as pushback drivers, experienced workers. It is not comprehensible. These are all long-term employees, and it was precisely this group that was singled out for the dismissals.”

A plaintiff, bus driver Murat G., then came forward and tried to testify to these facts in court. “I have worked as a bus driver and pushback driver for years; I have also been a loading worker at the ramp.” He listed his additional training and then accused WISAG, “They served us notice, on the other hand, they are hiring people!”

The judge interrupted him curtly, “In the end, you were a bus driver,” she directed him. Otherwise, he would have to “specify” which vacancy in the company would be suitable for him personally. Then others would have to be dismissed, because “otherwise 283 employees would not have been dismissed,” she said.

Absurdly, she pretended to understand his displeasure, but said, “You know, law and justice seldom go hand in hand.” All the arguments put forward were “not relevant to the dismissals,” the judge said. “One can think that this is not okay, that is understandable. But on the legal level, it is a limited company working in a chain of contracts. That is the contract situation.” From this, she said, one could “not necessarily” deduce that anything was not legal. “That only generates emotions and bad feelings.”

The judge also tried to halt the demonstration that was taking place in front of the labour court. In support of the plaintiffs, more than thirty workers, colleagues and other airport workers had come to the court to express the solidarity of all airport workers with the dismissed. Due to coronavirus rules, they were not allowed to attend the hearings as observers, so they demonstrated in front of the court with banners and chants and repeatedly marched around the building complex.

They were told by the judge that she would stop the proceedings if they continued to make noise outside the open windows. The workers talked about it and decided that they were not ready to be sent home.

One worker said, “We are insisting on our rights and demand our jobs back. The judge is asking us to be quiet and make our demonstration silently. But if we are not allowed to announce our grievances loudly why we are here and what has happened to us, I want to know how we are meant to publicise it.”

He added: “The layoffs continue. At WISAG 283, at ASG 92 and Lufthansa Technik 800 employees were dismissed for operational reasons. Fraport, FraSec, LSG and the cargo sector are still in the running for sackings. All in all, 20,000 workers are affected. If we don’t fight against it today and speak out, when will we? The mass dismissals are being justified by the pandemic, but WISAG is desperately looking for employees. It has become clear to us that they are taking advantage of the pandemic to get rid of the old workforce and replace them with younger, cheaper workers so they can hit the ground running after the pandemic and make the maximum profit.”

He continued, “We are not the cause, nor will we bear the cost. This is just the beginning, and it will spread like a bushfire. Then millions will be affected.” He repeated the slogan: “Today it’s us—tomorrow you.”

Employees from other airport companies had also come to express their solidarity with the sacked workers, and everyone referred to this slogan:

“Today it’s us—tomorrow you,” made famous by the WISAG workers hunger strike in February and March 2021 at Terminal 1.

Hüseyin Önal, a cargo worker and shop steward at Handling Counts, said: “I am here because at the airport, all contractors are currently enforcing the same policy. It is like the WISAG workers say: ‘Today it’s us, tomorrow you.’ At our company, for example, the number of employees has been halved in five years, but the work is still the same. Every day we lose rights and achievements.”

“Our company, Handling Counts, started 14 years ago as a 100 percent Lufthansa subsidiary, but today we are treated as third-class workers. Since 2007, we have been fighting for the same rights as all Lufthansa employees. But the Verdi trade union introduced an in-house pay scale for us that is lower than the Lufthansa pay scale. Legally, all this is allowed, although it has nothing to do with justice.”

“What will happen at Handling Counts? We don’t know. Our social rights and jobs are in danger. Lufthansa has already sold its subsidiary LSG and dismantled Eurowings. The Lufthansa Group has reached an agreement with the trade union at the highest level, and in the process, they have also introduced a new collective bargaining track on the minimum wage, and Verdi has agreed to everything.”

“Last year, because of the pandemic, they agreed at group level that Christmas and holiday bonuses would be cut by 2022, supposedly to secure jobs. Now, they are absolutely not negotiating with us. The employers’ association won’t agree to anything until 2022.”

Regarding Verdi, Hüseyin said: “The union is not stirring; you can see it at WISAG. The employer can decide everything on his own, dismiss the ‘more expensive’ workers and replace them with cheaper temporary workers. For me, this is quite unfair, and I really hope that the dismissed workers will get justice in court.”

Harald, a shop steward at LSG, had also come to the labour court in support of the WISAG workers. His experience was that Lufthansa, with the support of Verdi, has halved LSG and sold it off.

Speaking about the top Verdi official Christine Behle, Harald said, “She sits on the Verdi executive and the Lufthansa supervisory board at the same time. What does she do in collective bargaining? Does she negotiate with herself? Surely she has a strong conflict of interests?”

He continued: “At the airport, the union now concludes collective agreements that make the employees worse off instead of fighting for agreements that improve conditions for those worse off into line with the better off. I have been in the company for 30 years. We were always told that we wanted to secure jobs, and we always had to give up something in return.

“But no job has been secured. Because every full-time job has been replaced by on-call workers, fixed-term contracts, 40-hour contracts, temporary work, outsourcing. What jobs have been secured? We were almost 3,000 employees and now we are only 1,700, and of those, 400 are probably ‘too many.’ So, I ask myself, where is our whole society going?”

Asked about the struggle of Volvo workers in the United States, who have been on strike for weeks against the will of their union UAW, Harald said, “Great, they’re doing it right,” but over here, you don’t hear about such industrial action.”

“We need to hear much more about things internationally. It was the same with LSG, we heard a lot about conditions in the US that we didn’t know at all. For example, that LSG wanted to set up food production in Bor, in the Czech Republic, but the work was to be done by cheap labour from the Philippines! It’s modern slavery.”



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