

German State Labour Court rejects appeal by sacked WISAG airport bus drivers

Marianne Arens

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On Wednesday, September 7, the Hesse State Labour Court dismissed appeals filed by 14 former apron bus drivers at Frankfurt Airport against WISAG Ground Service GmbH. The case exemplifies the fact that workers cannot rely on the judicial system in their fight against unscrupulous corporations.

In the two consecutive hearings, several bus drivers courageously addressed the court and described the circumstances of their dismissal, which they have been fighting against for two years.

In the autumn of 2020, in a fire-and-rehire manoeuvre, WISAG had attempted to move the bus drivers to a new company called Sky City Bus GmbH, which was obviously a shell company of WISAG itself, as part of a “transfer of operations.” Those who did not accept this were evicted from the premises and stripped of any further wage payments with immediate effect.

One worker described to the court what the bus drivers had experienced two years ago: “In 2020, we were on short-time working, when in September there was suddenly a rumour that the Bus and Push department was to be dissolved. On September 25, a Friday, General Manager Dietrich invited us into the conference room, where he pronounced judgment on us. The leases on our buses were finished as of Monday, and afterwards, he said, ‘You bus drivers are still doing best, because we have a company where you can continue to work.’ That was Sky City Bus, but it had only been founded the previous March. Its managing director was a former WISAG employee; the company itself had no bus drivers, no buses of its own, and no capital of its own to lease any. That’s where we were supposed to transfer to.”

As the worker reported, the works council had already agreed to this over their heads. The bus drivers collectively resisted, went to a lawyer, and collected signatures attesting that the works council was not acting on their behalf. They refused to voluntarily transfer to Sky City Bus, “because it was clear that something was not right.”

On October 1, they showed up for their shift in the morning normally and offered their labour. “We told WISAG, ‘We can do anything, whatever it is!’ However, we were supposed to get on the (already terminated!) leased buses and drive for Sky City Bus. We didn’t want to do that. That’s when the manager told us to leave the premises within 15 minutes. We couldn’t even get our stuff out of our lockers. And this after working more than 20 years at the airport!”

The plaintiff’s attorney, Dr. Wolfgang Trieb, confirmed that the

bus drivers had been held at gunpoint. “We think the move to Sky City Bus was a pretext,” he said. “The whole thing was not a serious setup. The workers had to regard it as a manoeuvre which would lead to them losing their jobs. Frankly speaking, they had to conclude that their jobs were not safe, and that after more than 20 years. Even the short period of a few days in which they were to decide was an undue hardship.”

In fact, shortly before, WISAG had already massively attacked jobs in Berlin with the help of spin-offs and wage dumping, laying off 350 employees. Due to the coronavirus pandemic, WISAG seized its opportunity in Frankfurt as well and, supported by the trade union and the works council, began to reduce its core workforce, and compensate for it with increased use of temporary workers. After the bus drivers, 200 ground workers and later another 80 cleaning staff were laid off in short order.

Using the same model, WISAG is now closing two service providers of WISAG Passage Service in Berlin on October 1, 2022 and sending some of the employees to a new company under worse conditions, while the others are being laid off.

So, it was by no means unreasonable when WISAG bus drivers refused to voluntarily transfer to Sky City Bus in October 2020.

In the court hearing, one worker stood up and said, “Because of WISAG’s policies, I am ruined today. My life was destroyed in September 2020. Don’t we have the right to appeal? We founded and built this company [as Acciona]. WISAG took it over much later, that’s when they gave us a seven-year [employment] guarantee. With Sky City Bus, it was supposed to be a guarantee of just six months. Because we didn’t want that, they kicked us out within 15 minutes and threatened us with the police.”

The judge did not address the workers’ remarks, instead brushing it all aside with the argument that WISAG had made “the business decision” to stop providing bus services at the airport. “That is not the subject of these proceedings,” he said. “Emotionally” he could understand what the workers were saying, but legally it was a different story.

The presiding judge was Matthias Kreutzberg-Kowalczyk, who came to the Hesse Labour Court 10 years ago. At that time, in one of his first proceedings, he had ruled in favour of Fraport/Lufthansa/DLS against a strike by apron controllers. He had roundly declared both this strike and a planned solidarity strike by air traffic controllers in the tower illegal.

In the WISAG proceedings last Wednesday, Kreutzberg-Kowalczyk again and again made it clear that his intention from

the beginning was to dismiss the appeal. Repeatedly, he said the employer (i.e., WISAG) had “well justified its steps in 2020,” at one point saying, “The appeal’s prospects for success are not rosy.”

The business law firm representing WISAG addressed the court at length. Schweibert Lessner & Partner regularly acts for the WISAG group of Frankfurt oligarch and billionaire Claus Wisser (a member of the Social Democratic Party, SPD) and his son Michael Wisser.

Their lawyer, Dr. Ulrike Schweibert, claimed that the bus drivers were basically to blame for everything. “It’s true that it was all at short notice,” Schweibert said. “But it was all crystal clear. They had to think about whether or not they wanted to continue doing the same work on the same buses as before with the same colleagues.”

While she conceded, “It’s true that Sky City Bus didn’t work out in the end,” in any case, she said, it was not a matter of arbitrary action. Since the bus drivers had rejected the offer, they had only themselves to blame for anything further that happened. To the bus drivers, Schweibert said, “You made your own decision not to accept the offer, so in your case, that’s self-inflicted unemployment.”

However, the workers repeatedly proved that they had offered their labour. And indeed, there were and are numerous fields of employment that they could do even now, but for which WISAG keeps hiring temporary and new employees.

This also became clear at the second court hearing concerning a single bus driver. His lawyer, Hans Wüstehube, said, “The plaintiff had been employed at the airport for over 20 years, he had worked as a pushback driver, loading luggage, filling water tanks, everywhere. He should have been protected by social criteria alone. There were undoubtedly jobs at WISAG in other areas. The employer has all the plaintiff’s certificates in his files. He knows that the plaintiff could have done any other job.”

The worker himself added, “I am not an old man at 47, after all. I have also done all these [other] activities at Acciona. I have all the certificates for all the activities on the airport apron. There were always vacancies there—that was known.” After the hearing, the worker told WSWS, “WISAG was determined to get rid of us from the beginning.”

The judge, however, rejected the remarks, adopting verbatim the arguments of the opposing side: Other jobs, he said, were not comparable or did not exist. “There is no comparability”—and that in a company with 50,000 employees! The plaintiffs had been employed as bus drivers, as stated in their contract, according to the judge.

Attorney Wüstehube countered, “In practice, it looks different: The employer always uses them where it is necessary. The employer says, ‘I’ll give you the contract as a bus driver’—because he needs bus drivers. It’s the other way around: the employer needed bus drivers, so it’s a bus driver contract.”

To which the judge replied, “That might all be the case. But even if it’s tactically different, you have to make contracts, and you have to base everything on that.” WISAG had handled both comparability and social criteria “in a legally compatible way,” he said. “That’s what the employer can do.”

In closing, the plaintiffs’ attorneys in both lawsuits offered their willingness to settle with WISAG in exchange for severance pay. One of the attorneys said, “Where we are now, two years after the case, we could imagine a settlement on a modest scale. The idea of coming back is receding—even though there’s no end of work at the airport right now.”

See Interview with fired WISAG bus driver, Aptoulkasim Terzi <https://youtu.be/0Xz9c83eoFA>

WISAG’s lawyers brusquely declined, saying, “There is no room for agreement in these proceedings.” And Schweibert declared, “There was too much at dispute, the whole story. It was a vexing situation. The bus drivers had an alternative—they didn’t take it. That’s why we don’t want a settlement.” Later, she said, “Colleagues reacted incredibly emotionally. It started right away with the lawsuit, then they ran to the state parliament, the [air traffic workers union] IGL got involved ... The whole dispute has damaged the company. It just doesn’t stop.”

In response, the judge stated, “Obviously, the willingness to reach an agreement has broken down.” He had hoped for a different answer. In the verdict, he then apparently adopted the arguments of the company’s attorneys.

The plaintiff’s attorney Wüstehube stated that under these conditions it was “understandable if these workers end up losing their faith in the rule of law.”

Had the business lawyer Schweibert spoken openly, she would probably have had to say the following: “The main reason why we are neither compensating you nor reinstating you is that you, together with around 200 of your sacked colleagues in Frankfurt, were the only ones to defend yourselves against the dismissals. We cannot tolerate this; it could set a precedent. Your slogan: ‘Today it is us—tomorrow you,’ which you spread everywhere during your hunger strike and at rallies, could spread throughout the entire airport, because our business model is being adopted more and more by the other airport companies.”

Workers must draw the consequences from these court verdicts. Just as they cannot rely on bourgeois politicians, the trade unions and media to obtain their rights, so they cannot rely on the judicial system. Only if they turn to the entire working class and unite independently of all pro-capitalist organizations can they develop the necessary strength to do so.

The WISAG workers have organized and resisted independently of the main union at the airports, Verdi. They laid a black wreath in front of Verdi headquarters because the union had not lifted a finger to help them. Now they must turn to workers everywhere to defend the jobs and gains at the airport together and build an independent rank-and-file action committee that links up with the International Workers Alliance of Rank-and-File Committees.



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