

Two German airport workers win case in Hessian State Court and must be rehired after their illegal dismissal

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On October 5, two WISAG employees won their case in the Labor Court of the German state of Hesse. Both plaintiffs are airport workers who coordinate the loading and unloading of aircraft as dispatchers for the company WISAG Ground Service. Both had been dismissed in December 2020, along with 230 other WISAG employees.

The court, presided over by Judge Matthias Kreutzberg-Kowalczyk, ruled in both cases that the employment relationship had not been terminated by the dismissal and that WISAG must continue to employ the plaintiffs "until the legal conclusion of the legal dispute." The ruling, however, could well be the end of the legal dispute since the current case is itself an appeal. This means that an initial ruling by the Frankfurt Labor Court in August 2021, which had declared the dismissals to be lawful, has been overturned.

In succession, the two plaintiffs, Yildiray Sevin and Bouchta Lakhouane (known as "Bobo"), in a very principled and decisive manner, stood up in court for their right to work. Both had worked as dispatchers in the ACC (Area Control Center) area before WISAG threw them out with only three months' notice, after nearly 20 years' service at Frankfurt Airport.

In the first trial, which dealt with Yildiray Sevin's case, the discussion in court addressed in depth the "entrepreneurial decision" of WISAG Ground Service that had led to the dismissals in December 2020. WISAG had decided to reduce the permanent staff at the airport to 60 percent. There were to be only two ACC dispatchers per shift.

Sevin's lawyer, Marcus Hübner, explained the plaintiff's critique of this action: Firstly, the concrete implementation of the decision by WISAG had never been sufficiently explained. Secondly, the qualifications and social criteria had not been taken into account in the dismissals. Moreover, the way in which the works council hearing had taken place also raised serious issues.

Thirdly, the use of temporary workers was completely unclarified, he said. "The defendant [WISAG] is not showing his cards," Hübner said. Temporary workers are apparently employed in the ACC area, he continued. "Factually, there can't actually be any temporary labor there."

The judge then asked a series of questions, first about the reduction of operations to 60 percent. Later he asked about the temporary workers and how many dispatchers there had been before the pandemic, how the shift schedule worked in concrete terms, whether the shift rhythm could be observed at all, and what was meant by overtime, extra hours and special shifts.

The answers from the WISAG side revealed how callously the company used the pandemic crisis to implement long-prepared plans.

For WISAG, Managing Director Holger Kube and attorney Alexander Pfeiffer from the business law firm Schweibert, Lessmann & Partner were present. Pfeiffer explained, "We're not talking about reducing turnover to 60 percent, of course, but about a smaller company. We want fewer permanent people in the company." This decision, he said, was made independently of and before the pandemic because "a smaller workforce means cost reduction."

Repeatedly, Kube and Pfeiffer acknowledged that WISAG still engages temporary workers as well as new hires. In the second trial, Pfeiffer told plaintiff Bouchta Lakhouane to his face, "Yes, that's right, we hired new people on Oct. 1. That started again in June. ... But I'm not aware of any positions being open now."

Holger Kube explained that there are peaks and also valleys in the airport business. "The entrepreneurial decision was that it is economical to have as many employees as you need in the valley." He added, "The entrepreneurial decision, of course, is results-oriented." However, he said, it's important to know that "this company, even before it was WISAG," has "in the past always added more staff in peak times." The company now intends to discontinue that practice, he said. The plaintiff's attorney stated, "That means in fact that they took advantage of the coronavirus situation to reconstruct the system."

In both proceedings, the plaintiffs, i.e. the ground crew workers, took the bench themselves. When asked, on multiple occasions, whether they would agree to a settlement with WISAG in return for severance pay, both workers stated categorically: "No." Yildiray Sevin said his termination hit him "like a bullet to the head."

Sevin explained, "I did my job well. I did it for almost 20 years, 8.5 hours a day, though voluntarily often a lot longer. I was always the last to leave the workplace in good order when all the problems were solved. And after 20 years, this company, which itself has only been at the airport for two years, 'rewarded' me by firing me. I know the capitalist system and I know that this is normal, but I can't accept that they treat me like this."

He reported that the employment agency sent him to the Frankfurt Trade Fair, where WISAG is also represented. "They are looking for people there," and when asked, he said he was told WISAG was also looking for ramp and airfield workers for the airport.

"I want to work," Sevin continued. "What am I going to tell my kids at home? They've been waiting two years for me to get my job back. Others have been hired instead of me, and that's just unfair. It's not right that the older people are being sidelined who have been there for so many years."

He made it clear what WISAG is really trying to do, namely

relieving itself of the wages of veteran employees: “I earned 2974 euro per month, before taxes, plus vacation, Christmas and special bonuses. I was simply too expensive an employee. There is no other reason why I could not continue working.” He concluded his speech by saying, “I want my job back, nothing else.”

For the second plaintiff, Bouchta Lakhouane, known as “Bobo,” attorney Rainer Gromes initially said, “With regard to the risk, there is a willingness to settle on our part.” But Bobo himself stated, “I’ve come this far over almost two years now, so I can’t agree. I trust the German law. Your Honor, you decide what is right.”

He had “grown up in the airport,” Bobo continued, “and now that there’s so much work, there’s no work for me. There’s something wrong here ... I had hopes of achieving something with this approach. I have achieved my goal of getting to court. I stopped expecting anything from WISAG a long time ago, but there must be justice.”

To which the judge laughed and said, “That’s legitimate, but of course the court can make mistakes.”

Both plaintiffs demonstrated multiple times in court that their decades of experience with the airport’s operations gave them a much better understanding than the lawyers and managers.

For example, in contrast to the WISAG attorney, who stated that shifts would begin “between 5:30 and 6:00 a.m.,” Sevin stated very firmly, “Your Honor, my shift always began at 4:30. I had to set my alarm at 3:00 and check in at the airport at 4:30.” It was also necessary to make work arrangements 24 hours in advance. “But they may have eliminated that position as well.”

The new RTC computer system also played a role in the case. This system supposedly relieved the dispatchers of their work and made them redundant. To that, Sevin said, “I worked with that system for two years. It works to some extent, but you always have to update the data. For example, if on short notice the scheduled airplane does not arrive and a charter machine arrives in its place. That plane is built differently. The system can’t make the decision on its own about what’s needed in such a case.”

Bobo explained about the system, “The system supposedly does everything on its own, but we got in big trouble once when we weren’t at our seats for five minutes.”

The judge, listening carefully, reacted with consternation to what he heard about the computer system: “It gives a warning five minutes before the event. The machine can actually only give a warning; the dispatcher himself has to act.”

The judge handed down his verdict against WISAG the same day in the presence of his two lay assessors (who, together with the judge, constitute the jury in the German court system). While the written opinion for the verdict is still pending, the company must immediately reinstate the two WISAG workers and give them back pay for the months since their firing.

It is an important success, and in the context of the conflicts at the airport, has implications beyond this particular case. The verdict is not the result of better arguments, legal tricks or an insight into justice.

Judge Matthias Kreutzfeld-Kowalczyk is by no means a labor-friendly judge. Just a few weeks ago he ruled unequivocally against bus drivers who had also been dismissed by WISAG. In their case, he upheld the first-instance ruling and thus their dismissal, leaving the workers without even severance pay.

Soon after his appointment ten years ago, Kreutzfeld-Kowalczyk ruled against employees during an important labor dispute at the airport when he flatly forbade a solidarity strike of the air traffic controllers with the ground workers.

While on October 5 the court ruled favorably on the case of the two plaintiffs present, a third, absent plaintiff, who had agreed to a settlement by telephone, received a settlement of only 11,500 euro (before taxes): a pittance for 20 years of work at the airport.

However, the court cases coincide with a new international upsurge of the working class, to which the court is not insensitive. The tide of labor strife is rising at the airport, too. Workers are fighting back against the sacrifices demanded of them due to the coronavirus pandemic, inflation and the war. Just hours after the trial, for example, Eurowings pilots commenced a 24-hour strike.

Since the outbreak of the pandemic, thousands have been laid off at the airport, but the WISAG workers were the only ones who collectively and in a principled fashion resisted the firings. The two workers, who stressed in the October 5 trial that they had been fighting for their jobs for nearly two years, could not have done it alone. On Dec. 17, 2020, when 230 workers at WISAG Ground Service were laid off, they turned to the public and rebelled. Their struggle is well known at the airport and beyond.

They fought back not only against the service provider WISAG, but also against the responsible trade union, Verdi, which did not lift a finger to help them. The Verdi works council itself drew up the list of those who were dismissed at WISAG. That became clear again in court when Sevin said, “When the pandemic started, all of a sudden they said, Sevin, you’re on the works council’s list of those to be terminated.”

“We trusted the works council, but they sold us out,” Bouchta told WSWS after the trial. Because of this experience with the works council and union, WISAG workers symbolically laid down a black funeral wreath in front of the Verdi headquarters in March 2021.

For 22 months, WISAG workers have defended their right to continued employment at the airport in a principled and aggressive manner. The ruling of October 5, 2022 is a strong confirmation of this. But it must not stop there: An Airport Rank-and-File Committee must be established at Rhein-Main Airport to take up an independent fight for every job. The rank-and-file committee, together with associated rank-and-file committees, will lead this fight around the world.

Reasonable wages in line with inflation! Equal pay for equal work, at the highest level! Every laid-off worker who demands it must be reinstated! These committees will fight for this and above all for a common, international struggle against the Third World War. This has the full support of the WSWS, the International Workers Alliance of Rank-and-File Committees and the Socialist Equality Parties.



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