

## **Authoritarian defence of the German model?**

Conflicts over the freedom of collective bargaining and militant strikes in the German railway sector

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### **ABSTRACT**

This article argues that the recent strike wave in the railway sector can be seen as a reflection of a deep-seated social crisis in the country. This crisis was born out of the deregulation and fragmentation of labour relations, and is reflected in the privatisation and marketisation of the German railway system. The “small” train drivers’ union GdL successfully led the opposition against the changes and did so by using the strike weapon. When the Merkel government responded by cracking down on the right to strike for smaller unions with a new law, the GdL managed to bypass this crackdown.

### **KEYWORDS**

Deregulation and fragmentation of labour relations, German railway system, Strikes, Freedom of collective bargaining

## Introduction

In 2014 and 2015 Germany faced a wave of strikes in the service sector. While for some scholars these strikes represent evidence of an on-going deep crisis, i.e. the end of a supposedly regulated, economically successful and socially inclusive German model of capitalism,<sup>1</sup> others promote the idea of the supposed “ongoing existence” of that model, despite some “transformed dimensions”.<sup>2</sup> This debate is having an immediate political impact given that the German case, especially during and after what is called the European fiscal crisis, seems to represent a model that combines both economic strength and social welfare.

In this paper, I take the railway sector as an example of industrial conflict to illustrate firstly the *social crisis* of the German model of capitalism, and, secondly, the fact that this crisis is being *neglected* by important actors of what Gramsci calls the ruling bloc: employers, government (where the role of the Social Democrats is especially important), large parts of the traditional and large trade unions, such as IG Metall, and finally most academics and journalists. As this article will show, the neglect of the growing social crisis is the basis of what Ian Bruff calls the “mask of ‘success’” of the German model, and its propaganda for competitive solidarity as its motor.<sup>3</sup> At present the denial of growing social tensions in German society culminates in a labour law reform that targets explicitly more militant and demanding trade union activities, asserting that they are organized by “small” and clientelistic, and thus particularistic, organisations. The industrial conflict in the railway sector mirrored many of these important developments and concluded with an important success, one that created opportunities for bypassing this new labour law for at least the coming years in that sector. Nevertheless, one should not be too optimistic concerning the general impact of that victory.

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<sup>1</sup> STREECK, Wolfgang. “The Strikes sweeping Germany are here to stay. As pay gaps widen and conditions deteriorate German public sector and service workers are turning to once-unthinkable industrial action”. *The Guardian*. 22 May 2015. [<http://www.theguardian.com/commentisfree/2015/may/22/strikes-sweeping-germany-here-to-stay>].

<sup>2</sup> MÖLLER, Joachim. “Did the German Model Survive the Labor Market Reforms?” *Journal for Labour Market Research*. Vol. 48, n.2, 2015, pp. 151-168.

<sup>3</sup> BRUFF, Ian. “Germany and the Crisis: steady as she goes?” In: WESTRA, Richard; BADEEN, Dennis & ALBRITTON, Robert (eds.) *The Future of Capitalism After the Financial Crisis: The Varieties of Capitalism Debate in the Age of Austerity*. New York: Routledge, 2015, pp. 114-31.

### **Railway strikes and big and small trade unions in German capitalism**

In 2014 and 2015, the German Train Drivers' Union (*Gewerkschaft Deutscher Lokführer* or GdL) organized an industrial conflict that lasted almost one year. In that time, it went on strike nine times, each time successfully blocking the traffic of passengers and goods for several days. Even when in absolute and relative terms these strikes did not change significantly the relatively low average of 16 strike days per 1000 employees in Germany (France, for example, is 139<sup>4</sup>), their economic and political impact was considerable and the trade union ultimately achieved a remarkable success. This success is even more significant given that the Train Drivers' Union is a so-called "small" union, i.e. not part of the traditional confederation DGB (confederation of German Trade Unions). It, in fact, organized not only against the employers, the Deutsche Bahn AG (German Railway, a state owned stock corporation under private law) and the media and government – but also against the traditional DGB-trade unions, first of all the direct competitor in the railway sector, the EVG (Railroader and Traffic Trade Union). The GdL has roughly 35,000 members; in contrast, the "big", DGB-affiliated trade union EVG has 200,000 members. The historic success of the GdL strike actions has two dimensions: the agreement includes the recognition to represent on-board staff, in addition to engine drivers, and secondly, the union is now able to *bypass* the new, restrictive law against small, and above all militant trade unions, pushed through by the Social Democrats in the grand coalition with the Christian Democrats.

Corporatism and social partnership at the company and national level is considered the heart of the so-called German model of capitalism. "Big" trade unions representing more than two million members (such as IG Metall or ver.di, the trade union for services) appear to demonstrate the extraordinary strength in involving workers' interests in economic and political development. Trade unions in Germany in principle are not politically divided as is typical, for instance, in France. In fact, after the end of the Second World War, the conception of a unified and sectoral labour union prevailed as a structural feature of the German model of industrial relations. Labour unions are often characterized by political "neutrality" (even if de facto they have always been very close to the Social Democrats).

Yet for some time now small trade unions have become an essential part of the landscape of industrial relations in Germany and it is important to note that these smaller unions play different (key) political roles: some small trade

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<sup>4</sup> WSI. Wirtschafts- und Sozialwissenschaftliches Institut der Hans Böckler Stiftung. Tarifarchiv, 2014 [www. [http://www.boeckler.de/45221\\_46220.htm](http://www.boeckler.de/45221_46220.htm)]

unions regularly function as an instrument for employers to downsize demands as is the case with the “Christian trade union confederation”; some act as purely professional pressure groups for highly qualified workforces such as physicians or pilots (these professional associations are at the heart of the public rhetoric about “clientelism”, see below); yet others stand for a less-compromising and more militant bargaining policy, as is the case with the anarcho-syndicalist trade union FAU, a small trade union that is organized in some institutions in big cities such as Berlin or Frankfurt and typically pushes and radicalizes industrial conflicts. In 2010, the German Supreme Court strengthened the position of the small unions by accentuating the freedom of the right of collective bargaining in the constitution. But already before that date some of the smaller trade unions could enforce their position or even change their status from a pure lobby organisation to a bargaining trade union (this was the case especially for professional-oriented associations<sup>5</sup>) or they could defend their position, as was the case for the anarcho-syndicalist FAU in Berlin.<sup>6</sup>

The socio-political differences within small trade unions are important to note because, as we will see, the labour law reform, which is called “law for the unity of collective bargaining”, officially argues that it intends to push back the influence of “small” trade unions, but in fact targets more militant ones.

### **The demands of GdL and the negotiations with the employer**

The GdL can be described as a hybrid in this political landscape of small trade unions. Thus, it questions the overall stated need of rising competitiveness and the related rising social costs *de facto*, but not programmatically. In fact, the GdL’s tradition is not a very progressive one; indeed it is far from that. It has a rather conservative institutional history (for instance, there was a merger with Christian and functionaries’ unions in 1963<sup>7</sup>), but what is more important is the union’s position on crucial social and political questions: the idea, for example, that different levels of qualification must correspond to different pay-levels is deeply grounded in the union, which regularly attacked its opponent from the DGB for politics of “egalitarianism”. The GdL pursues this approach up to the present day.<sup>8</sup> To strengthen a lower income in relation

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<sup>5</sup> GREEF, Samuel; SCHROEDER, Wolfgang. *New labour competition: How processes of deregulation and privatisation affect industrial relations in Germany*. Paper for the 16<sup>th</sup> ILERA World Congress, Philadelphia, Pennsylvania, USA, 2-4 July 2012.

<sup>6</sup> BOEWE, Jörn. “Koalitionsrecht verteidigt”. *Junge Welt*. 11. June 2010, p. 5.

<sup>7</sup> GREEF, Samuel; SCHROEDER, Wolfgang. “New labour competition: How processes of deregulation and privatisation affect industrial relations in Germany”. Op. Cit., p.14f.

<sup>8</sup> KALASS, Viktoria. *Neue Gewerkschaftskonkurrenz im Bahnwesen. Konflikt um die*

to a higher one is thus not part of the GdL trade union tradition. Fighting “egalitarianism” was also an argument against the financial contributions to the public old age pension schemes. Instead, the GdL proposed the enlargement of private capital-based pension schemes – completely in line with the dominant policies that aim to privatise social security.<sup>9</sup>

But nevertheless, the trade union became an important player by organizing long-lasting and militant strike activities. Already in 2007-2008 it initiated a long (almost one year, similar to 2014-2015) and ultimately successful labour dispute with unusually high wage demands (30 per cent), and the important claim to organize not only train-drivers, but also on-board staff.<sup>10</sup> In both cases, the “other side” of the conflict consisted of the employer, but also the dominant DGB-affiliated union in the railway sector. The latter is afraid of intensified competition over union membership, but represented, for its part, support for the further privatisation of the railway system and emphasised the need to strengthen competitiveness and to save costs (see below). In the conflict in the years 2007 and 2008, the GdL transformed itself from a professional-based to a sector-based union, and the most recent dispute is a direct follow-up in that logic, which aims at strengthening bargaining power via a combination of personnel with ‘strong’ structural positions (i.e. train drivers) with personnel with a weaker position vis-à-vis the disruption of train service (i.e. employees of the on-board bistros etc.).<sup>11</sup> In fact, during the strikes, the GdL was faced with a whole campaign against its “egoistic clientelism” (see below), with many politicians trying to end the strikes by seeking a “real good result” for train drivers, without taking into consideration the other parts of the workforce organized in the union. But the GdL was remarkably consistent and continued to insist on including the other members of the workforce into the agreement with an explicit reference to norms of solidarity.

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*Gewerkschaft Deutscher Lokomotivführer*. Wiesbaden: Springer, 2012; BACHMANN, Andreas. “Wer anderen eine Grube... Oder: Wer fällt der Tarifeinheit zum Opfer”. *express, Zeitschrift für sozialistische Betriebs- und Gewerkschaftsarbeit*. Frankfurt am Main, n. 1/2015.

<sup>9</sup> GdL 2008: Intelligente Lösungen statt Gleichmacherei. Public Statement, 23/08/2008. Cited in [<http://www.gdl.de/Aktuell-2008/AushangReport-1219484632>]

<sup>10</sup> GREEF, Samuel; SCHROEDER, Wolfgang. New labour competition: How processes of deregulation and privatisation affect industrial relations in Germany. Op. Cit.

<sup>11</sup> In 2007/2008, the GdL received the right to *organize* different workforce categories; in 20014/2015, the claim was the right to *negotiate* for all member categories (and not only for train drivers).

### **Railway Privatisation: the intensification, flexibilization and precarisation of work**

The “pure” social demands of the strike action included wage increases (5 per cent), reduction of working time (two hours per week) and less working time flexibility (only 50 instead of an unlimited number of hours of overtime per year), and free weekends (defined as no less than Friday 10 pm to Monday 6 am). In this regard, the success was obviously rather modest: the agreement included a 3.5 per cent wage increase, a reduction of working time of one hour per week from 2016 and some “efforts” to reduce overtime and the very flexible working time schedules. But what is important to note is that again, as in 2007, the GdL de facto broke a period of heavy silence surrounding the high social costs as a result of the ongoing restructuring of the former public railway sector. It was these very social costs that were discussed as one of the central reasons for a strike wave in the former public service sector during the last years.<sup>12</sup>

In fact, the politics of “quasi privatisation” and cost-cutting in the railway sector are typical for what is occurring in other former public service sectors, such as the telecommunications sector. In 1994 the Deutsche Bahn (German Railway) started its organizational, economic and social transformation from a massive state-owned enterprise into a profit-oriented, internationally focused corporation. It thinned out its rail network to make it more profitable and invested in markets that seemed to prosper, such as long distance routes and international logistics. While doing so, it installed wide-ranging internal organizational flexibility, covering nine companies (responsible for the regions, long distance, services etc.), organised in about 300 enterprises – all with different and flexible modes of collective bargaining, including different rules for new workers.<sup>13</sup> Accompanying extensive job losses (with an estimated 250,000 jobs cut, which constituted half of Deutsche Bahn’s workforce between 1994 and 2007).<sup>14</sup> The company also established a flexible wage and working-hour scheme and a system of market-based “self-responsibility” of groups of units of the workforce (such as cost-centres) for margins and performance’s results.<sup>15</sup> Thus, strong intensification and

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<sup>12</sup> KAHMANN, Marcus. “Les syndicats catégoriels, nouveaux acteurs de la négociation collective”. *Chronique Internationale de l’IRES*. n.149, mars 2015, pp. 14-26; STREECK, Wolfgang. “The Strikes sweeping Germany are here to stay. As pay gaps widen and conditions deteriorate, German public sector and service workers are turning to once-unthinkable industrial action”. Op. Cit.

<sup>13</sup> KALASS, Viktoria. *Neue Gewerkschaftskonkurrenz im Bahnwesen...* Op. Cit., p.85ff.

<sup>14</sup> Ibid., GREEF, Samuel; SCHROEDER, Wolfgang. “New labour competition: How processes of deregulation and privatisation affect industrial relations in Germany”. Op. Cit.

<sup>15</sup> ENTGERTNER, T. *Die Privatisierung der Deutschen Bahn*. Wiesbaden: VS Verlag, 2008,

flexibilization of work is reported, due to a strong “marketization” of performance-control, but also employment with “competitive” results (the wages of the on-board bistro staff in the trains for example are dependent on their sales). For those with regular contracts, the income is located at the lower end compared to most other sectors (from 1600 to 3,500 Euros before taxes for the elderly), with some wages for precarious workers amounting to about half of the median wage; before the minimum wage’s introduction even a pay of 4 Euros per hour had been documented.<sup>16</sup> In fact, besides gastronomy and cleaning, the transport sector is situated among those sectors with the lowest income level and the highest portion of precarious employment.<sup>17</sup> Subcontracting is common, not only via the firm-owned temporary employment company,<sup>18</sup> but also via many “nameless” companies that often exist only for a short time period and are enmeshed in complex networks of sub-subcontracting.<sup>19</sup> Temporary work is common even among train-drivers, as well as false self-employment.<sup>20</sup> Both the low wages and the extensive bypassing of working-time rules became public with the strikes.

As this paper has already noted, the “big”, DGB-affiliated railway-sector union *supported* the process of privatisation, “modernization” and marketization, including its ultimate aim to enter the stock market (for the moment this plan has been put on hold). It tried to constructively support and to co-design the company’s restructuring in the name of enforcing competitiveness in the global and European market (backing its so called “socially acceptable manner”). But due to new EU directives, among other factors, and the harsh competition on the national and European market, the co-design turned out to be a more or less direct acceptance of social concessions.<sup>21</sup> In fact, the railway sector provides a good example for the limits established by a trade union’s policy as co-managers, which sees itself as a partner for social competitiveness and takes direct responsibility for

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p. 135ff.; Rehder, Britta. “Adversial legalism in the German System of industrial relations?” *Regulation & Governance*. Vol. 3, 2009, p. 227.

<sup>16</sup> Mobifair. “Prekäre Verhältnisse im Verkehrssektor. Abschlussbericht”. [http://www.mobifair.eu/Projekte/Abgeschlossene\\_Projekte/Dokumente/](http://www.mobifair.eu/Projekte/Abgeschlossene_Projekte/Dokumente/), 2011; Mobifair. “Externe Dienstleister. Abschlussbericht”.

[http://www.mobifair.eu/Projekte/Abgeschlossene\\_Projekte/Dokumente/](http://www.mobifair.eu/Projekte/Abgeschlossene_Projekte/Dokumente/), 2012.

<sup>17</sup> Ibid.

<sup>18</sup> See [www.dbzeitarbeit.de](http://www.dbzeitarbeit.de)

<sup>19</sup> Mobifair. “Externe Dienstleister. Abschlussbericht“ 2012. Op. Cit.

<sup>20</sup> Ibid.

<sup>21</sup> When in 2008 the former president of the DGB-affiliated railway union, Hansen, changed to the HR board of the Deutsche Bahn, this came as a shock for many trade union members, but to a certain extent it illustrates the closeness in of positions of the union and the employer.



competitive performance and flexibility in the context of harsh economic rivalry among, but also within more and more fragmented companies.<sup>22</sup>

The “small” GdL presented itself for the first time in 2007 as a de facto opposition to this development with the demand for a wage increase of up to 30 per cent – justified with the extraordinary rise of profits and management salaries (the latter at more than 60 per cent). Finally, and in complete contradiction to the overall stated danger to weaken competitiveness, an agreement was reached, leading to a remarkable increase in remuneration of 11 per cent, a compromise that later included all 135,000 regular employees.<sup>23</sup> When I say “de facto” opposition, it has to be clarified that the GdL does not represent an alternative approach to public infrastructure. Competition as such is not negative, the union regularly states, but it in turn shall not have negative consequences for workers.

### **Public campaigns against egoism and clientelism and labour law reform**

Already in 2007-2008 the conflict between the GdL, Deutsche Bahn and DGB trade union EVG was fought out to a great extent in and via the media, but this time the public experienced a nationwide, extremely personalized campaign that set out to weaken the union and undermine its president, Claus Weselsky. Even “serious” interviews or newspapers presented the latter as irrational and crazy, indulging dangerously in his passion for power, and marked him as a “Rambo” or as an egomaniac – or poked fun at him, focusing on his looks or his East German accent. All coverage seemed to focus on one thing: “his power over passengers”, and the yellow press began populist calls to actively and physically confront him with “people’s opinion”. To avoid misunderstandings, I should note that in Germany it is common to publicly attack trade unions, especially when they go on strike. But this time the hysterical campaign became one of the important historic elements of the whole railway strike, and it obviously had two goals (or at least effects): the first was to silence concerns over working conditions and strong social needs in the railway sector; in fact, the whole conflict was presented as a power game and not as a social conflict. The second goal was to clearly strengthen the discourse of the dangerous wielding of power of a particularistic group of

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<sup>22</sup> HÜRTGEN, Stefanie. *Transnationales Co-Management. Betriebliche Politik in der globalen Konkurrenz*. Münster: Westfälisches Dampfboot, 2008.

<sup>23</sup> HOFFMANN, Jürgen and SCHIMIDT, Rudi. “The train drivers' strike in Germany 2007–2008: warnings for the future of the German trade union movement?”. *Industrial Relations Journal*. Vol. 40, n. 6, November 2009, pp. 524-533.



employees (“this mini-trade union”), taking us all as hostages (“slapping the face of millions of people”) and thus the need to juridically limit their overwhelming power. (And indeed, all the media and talkshows had to admit that the trade union was acting entirely on a legal basis and was not violating any of the laws regulating strike activities.)

Actually, it was the Social Democrats and spokespersons of the “big” trade unions that demarcated the line of attacks: Sigmar Gabriel, leader of the Social Democrats and Minister of Economics, set the tone when he chose one of the biggest yellow press newspapers to speak about the “abuse” of bargaining freedom by the train drivers’ union, the need to prevent damages to “our economy”, and stop “muscle-man behaviour on the back of Germany and all employees”. He explicitly differentiated between the “65-year-old DGB trade union’s principle” to act “responsibly” concerning strike activities and the GdL, which he claimed was abandoning that consensus. All these statements ended with the call for a juridical reform, in order to guarantee “bargaining unity” and to prevent dangerous clientelistic movements. In short, the extremely aggressive and personalized campaign of employers, Social Democrats (and less offensive, Christian Democrats) and most of the DGB trade unions resulted in a change to labour law, and due to the breadth of this alliance, alternative positions were barely present (only some very grass-roots activists tried to organise a different public debate).

The labour law reform operates under the title of ‘unity of collective bargaining’. In fact, the project is an older one. Already in 2010 the employer’s association together with the DGB trade unions initiated a joint initiative (which failed at the time) to limit the power of small trade unions and target the “erosion of solidarity and economic insecurity”.<sup>24</sup> With the creation of the new grand coalition between Christian and Social Democrats new efforts have been made by the Social Democratic labour minister to push through the reform of the labour law, partly parallel to the railway conflicts, and it was passed by parliament in the summer of 2015. The new law allows only “the biggest” union in a firm, counted by the highest number of members, to engage in strike activities and collective bargaining. Doubts about this idea were articulated even at the grass-roots level of the supporting

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<sup>24</sup> See the parliamentary debate in Deutscher Bundestag: *Plenarprotokoll 17/164, Stenografischer Bericht der 164. Sitzung; am 07. März 2012 in Berlin.* [<http://dip21.bundestag.de/dip21/btp/17/17164.pdf>]. Deutscher Bundestag 2012: 19479ff.; BDA – Bundesvereinigung Deutscher Arbeitgeberverbände / DGB – Deutscher Gewerkschaftsbund, 2010. *Funktionsfähigkeit der Tarifautonomie sichern – Tarifeinheit gesetzlich regeln:* <http://www.dgb.de/themen/++co++0c2cb158-720b-11df-59ed-00188b4dc422>] BDA/DGB 2010).

trade unions,<sup>25</sup> raising questions such as what does it mean to count and name each trade union member officially and under direct observation of the employer, or how to define a “firm” today (given the common situation of highly fragmented workplaces due to the outsourcing and subcontracting described above). At the moment, different lawyers and some of the “small” trade unions (including the GdL) have appealed to the constitutional court to reject the new labour law, and there are indeed widespread doubts that this law is consistent with the constitution. Nevertheless, it cannot be expected that the project to weaken “small” (read militant) trade union activism will be abandoned (see below), and employers, but also some trade unionists, are already speaking out in favour of additional sanctions.

### **The erosion of the unity of collective bargaining and social deregulation**

Indeed, there is widespread competition among the trade unions – competition that surpasses the confrontation between “big” DGB trade unions and “small” ones outside the DGB. The competition between the unions rose dramatically for three main reasons: the first is the permanent restructuring of enterprises such as outsourcing, subcontracting, relocation etc., which includes a permanent re-definition of workforces, structures of economic sectors, mandates and so on. Temporary work agencies, for example, became the focus of both *ver.di*, the service trade union, and IG Metall. The second reason is the ongoing contradictory transformation of the trade unions from classic social democratic bodies into partners for social competitiveness (co-managers), which will entail an immediate responsibility for competitive performance and flexibility in the context of harsh economic rivalry among but also within fragmented companies. To be a strong partner for social competitiveness, unions need both the support of the rank-and-file as well as the recognition of management.<sup>26</sup> Thirdly, there is a growing anti-union attitude taking hold among many employers and thus an increasing risk of unions to be expelled from the shop-floor.<sup>27</sup>

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<sup>25</sup> See the “open letter” of IG Metall members. “Open letter: Kein Pakt mit den “Arbeitgebern” und Regierung gegen das Streikrecht.

[<http://www.labournet.de/politik/gw/kampf/streik/kein-pakt-mit-arbeitgebern-und-regierung-gegen-das-streikrecht-offener-brief-an-die-vorsitzenden-der-ig-metall/>]

<sup>26</sup> REHDER, Britta. “Legitimitätsdefizite des Co-Managements”. *Zeitschrift für Soziologie*. Vol. 35, June 2006, 2006, pp. 227-242; HÜRTGEN, Stefanie. *Transnationales Co Management. Betriebliche Politik in der globalen Konkurrenz*. Op. Cit.

<sup>27</sup> WIGAND, Elmar. “Blinder Fleck Betriebsratsbashing. Über kriminelle Unternehmer und ihre Dienstleister”. *express. Zeitung für sozialistische Betriebs- und Gewerkschaftsarbeit*. N. 6-7/2015, p. 7, 2015.

It is important to note that the rising competition among unions is taking place in an environment of increasing deregulation, expanding low-wage sectors and an absence of workers' representation. Already ten years ago research showed a dramatic decentralization and widespread erosion of the collective bargaining system despite its *formal* continuation.<sup>28</sup> Under the roof of one wage agreement manifold deviations are common. The management, of course, did use and accelerate the rising social and organisational fragmentation, not only via the described strategies of outsourcing and precarisation, but in addition it often successfully organized strong dumping competition via employer-loyal associations (for example, the Christian Trade Union Confederation, also a "small" trade union).<sup>29</sup>

In consequence, there was a recalibration and stratification of institutional relationships within Germany, preserving traditional arrangements in some respects but also predicating their continued viability on practices which embodied more unequal relations of power. Key examples here include the growing roles for temporary work agencies in recruitment strategies and for "opening clauses" in collective bargaining agreements (which allowed companies to deviate below the minimum set by the sector-wide wage structure). These developments all exerted downward pressure on labor costs, especially at the lower end.<sup>30</sup>

In the service sector and beyond there is "a broad erosion of formal and informal wage norms" and "declining wages in large segments".<sup>31</sup> The social effects of ongoing deregulation and fragmentation are widely felt. Sociological research shows strong feelings of injustice and suffering due to deteriorated working conditions, rising stress, low pay and strong social

<sup>28</sup> BISPINCK, Reinhard. "Kontrollierte Dezentralisierung der Tarifpolitik – eine schwierige Balance". *WSI-Mitteilungen. Monatszeitschrift des Wirtschafts- und Sozialwissenschaftlichen Instituts der Hans Böckler Stiftung*, vol. 57, n. 5, 2004, pp. 237-245; BISPINCK, Reinhard. "Abschied vom Flächentarifvertrag? Der Umbruch in der deutschen Tariflandschaft". *WSI-Tarifhandbuch*, Frankfurt a.M., 2006, pp. 41-66.

<sup>29</sup> DRIBBUSCH, Heiner: "Tarifpolitische Konkurrenz als gewerkschaftspolitische Herausforderung. Ein Beitrag zur Debatte um die Tarifeinheit". *WSI-Workingpaper No 172*, Düsseldorf 2010.

<sup>30</sup> BRUFF, Ian. "Germany and the crisis: steady as she goes?" In: WESTRA, Richard; BADEEN, Dennis & ALBRITTON, Robert (eds.) *The Future of Capitalism After the Financial Crisis: The Varieties of Capitalism Debate in the Age of Austerity*. Op. Cit., p. 119f. See also GREER, Ian; DOELLGAST, Virginia. 2008: "Vertical Disintegration and the Disorganization of German Industrial Relations". *British Journal of Industrial Relations*. Vol. 45, n.1, 2008, pp. 55-76; LEHNDORFF, Steffen. "German capitalism and the European crisis: part of the solution or part of the problem?". In: LEHNDORFF, S. (ed.). *A triumph of failed ideas. European models of capitalism in the crisis*. Brussels: ETUI., 2012.

<sup>31</sup> STREECK, Wolfgang. "The Strikes sweeping Germany are here to stay. As pay gaps widen and conditions deteriorate, German public sector and service workers are turning to once-unthinkable industrial action". Op. Cit., p.2.

uncertainty among the rank-and-file.<sup>32</sup> There is no doubt that this social context led to the remarkably strong support of the railway strike and the GdL among the general public (already in 2007 and again in 2014-2015). In the middle of the hysterical and personalized smear campaign and even when people were affected as railway clients, surveys stated that more than a half of the German people “understand” and “support” the strike activities of the GdL. But the widespread unwillingness to discuss the social degradation is still reflected in (even leftist) academic literature where this public support mostly appears as a sort of populist attraction,<sup>33</sup> which neglects the importance of the “new social question” as an outcome of competition-led fragmentation and social downgrading.

### **The call for competitive solidarity – strengthening the German path of capitalism**

Both political elites and most academic observers create the picture of a need to strengthen and defend the traditionally good working German social partnership model (i.e., the DGB trade unions) against the particularism coming from the small professional unions.

In fact, also in academic debates – as in the public – small trade unions are regularly reduced to professional associations. Their actions are portrayed as representing “aggressively [...] their own [highly skilled] members outside established channels”<sup>34</sup> and further trying “to poach in foreign terrains”.<sup>35</sup> Professionally oriented unions, in this conventional argument, follow an “exclusive understanding of solidarity”, whereas the big industrial federations represent the principle of inclusive or “universal” solidarity.<sup>36</sup> In contrast to

<sup>32</sup> BERGMANN, Joachim; BÜRCKMANN, Erwin; DABROWSKI, Hartmut. *Krisen und Krisenerfahrungen. Einschätzungen und Deutungen von Betriebsräten und Vertrauensleuten*. Supplement der Zeitschrift Sozialismus, n. 4/2002.; HÜRTGEN, Stefanie; VOSWINKEL, Stephan. *Nichtnormale Normalität. Anspruchslogiken aus der Arbeitnehmermitte*. Berlin: Edition Sigma, 2014; KRATZER, Nick; MENZ, Wolfgang; TILIUS, Knut; WOLF, Harald. *Brüchige Legitimationen – neu Handlungsorientierungen? Gerechtigkeitsansprüche und Interessenorientierungen in Arbeit und Betrieb vor dem Hintergrund von Krisenerfahrungen*. Berlin: Sigma, 2015.

<sup>33</sup> HOFFMANN, Jürgen and SCHIMIDT, Rudi. “The train drivers’ strike in Germany 2007–2008: warnings for the future of the German trade union movement?”. Op. Cit.

<sup>34</sup> STREECK, Wolfgang. *Re-forming Capitalism. Institutional Change in the German Political Economy*. Oxford: Oxford University Press, 2009.

<sup>35</sup> HOFFMANN, Jürgen and SCHIMIDT, Rudi. “The train drivers’ strike in Germany 2007–2008: warnings for the future of the German trade union movement?”. Op. Cit.

<sup>36</sup> STREECK, Wolfgang. “Klasse, Beruf, Unternehmen, Distrikt. Organisationsgrundlage industrieller Beziehungen im europäischen Binnenmarkt”. In: STÜMPPEL, Burkhard; DIERKES, Meinof (eds.) *Innovation und Beharrung in der Arbeitspolitik*. Stuttgart: Schäffer Pöschel, 1993, p. 43ff.

the big, DGB-affiliated trade unions, the “particularistic associations”<sup>37</sup> ignore the wider social and economic context and the given constraints (the “objective analytical criterion”, as Jürgen Hoffmann and Rudi Schmidt put it).<sup>38</sup> It is assumed that a certain “redistribution mass” (*Verteilungsmasse*) exists, which suggests that the “small” professional unions outside the DGB reduce the income level of employees as a whole.<sup>39</sup> Due to that, and because they can homogenize members’ demands much easier and translate them into radical requirements, above all better pay, they are perceived as a populist danger to both the inclusive big unions and the concerned companies.<sup>40</sup>

What we see here is an a priori understanding of universal solidarity as solidarity under given economic constraints. Particularism is assumed to question the so-called economic necessities (*ökonomische Sachzwänge*). The private interest in profits is regarded as the general interest (because it “creates” income and employment), and the goal is to strengthen competition-oriented social compromises. But unlike what is still celebrated as the well-functioning social model of German capitalism<sup>41</sup>, for the protagonists it is quite clear today that in an environment of harsh economic competition, concession bargaining is what is needed. The call for universal solidarity – in this framework – turns out to be a call for concessions in a highly fragmented, competitive economy and society. It aims to further political acceptance of measures like cost-cutting and deregulation, which are taken in order to strengthen competitiveness, not only at the national level, but on all scales of the firm and society.

This is exactly what can be seen in current public debates, and also in the text of the reformed labour law. In the latter, the main focus is on “employees in key working positions”.<sup>42</sup> The text makes clear that they have much power (due to their positions), and thus there is a risk of its “abuse”. – The argument goes that when “employees in key positions” bargain separately, this weakens

<sup>37</sup> HOFFMANN, Jürgen and SCHIMIDT, Rudi. “The train drivers' strike in Germany 2007–2008: warnings for the future of the German trade union movement?”. Op. Cit., p.339.

<sup>38</sup> Ibid., p. 333f.

<sup>39</sup> LESCH, Hagen. “Spartengewerkschaften – Droht eine Destabilisierung des Flächentarifvertrags?”. *Sozialer Fortschritt*. Vol. 57, n. 6, 2008, pp. 144-153; MÜLLER, Hans-Peter; WILKE, Manfred. “Gestaltend Einfluss nehmen” – *Bahngewerkschaft und Bahnreform 1993-2005*. Berlin, 2006, p. 323f.

<sup>40</sup> Ibid.

<sup>41</sup> HALL, Peter and SOSKICE, David (eds.) *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. Oxford: Oxford University Press, 2001; for a critical perspective, see BRUFF, Ian; EBENAU, Matthias. “Critical Political Economy and the Critique of Comparative Capitalisms Scholarship on Capitalist Diversity”. *Capital & Class*. Vol. 38, n.1, 2014, pp. 3-15.

<sup>42</sup> Deutscher Bundestag. *Entwurf eines Gesetzes zur Tarifeinheit. Drucksache 18/4062*, 20/02/2015, Berlin. Source: [<http://dip21.bundestag.de/dip21/btd/18/040/1804062.pdf>], p.8f.

the representation of all the others workers.<sup>43</sup> But a closer glance shows that the concern is not about the separation of bargaining units, but about obstacles to flexible concession bargaining at the firm level (especially, as the text puts it, in “times of crisis”):

Social partnership is of special importance in times of economic crisis – this is what the experiences have shown that have been made during the financial und Eurozone crisis. In such times, the social partners often have to find all-embracing compromises to maintain employment levels, which are, in the end, in the interests of all employees. The competition between diverging wage agreements can obstruct such all-embracing compromises.<sup>44</sup>

The argument is that “successful bargaining” could be disturbed by employees in key positions if they minimize the (given) scope for distribution (*Verteilungsspielraum*) at the firm level.<sup>45</sup> The “firm-level community” would be weakened, and this would pose a threat to “industrial peace” or more precisely the “pacification function” of collective bargaining.<sup>46</sup> Moreover, “The employer cannot rely any longer on the validity of a collective agreement and thus a relatively peaceful cooperation during its duration”; instead “he can be faced at any time with a multitude of further demands”.<sup>47</sup>

In short, ‘bidding wars’ (*Überbietungskonkurrenz*) and the destabilisation of a peaceful procedure for the imposition of cuts are the main concerns. Anger within the “firm-level community” due to ongoing pressure from the employer’s side is not mentioned. Solidarity itself is based on the fundamental acceptance of a firm’s needs in the context of worldwide competition. Even more: solidarity as such is *a priori* defined as something to be situated within firms; there is no talk about broader social solidarity in society.

Thus the political project behind the “Unity of Collective Bargaining” act aims to ensure a competitive social partnership model via eliminating those who question this path. Explicitly, the grand coalition aims to avoid ‘bidding wars’ whereas dumping competition is not even mentioned, even if empirically it is much more important.<sup>48</sup> The competitive social partnership model is presented as something successful, and in turn widespread precariousness, fragmentation and social suffering are neglected. Poverty, precarious working and living conditions, extreme flexibility of working time

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> DRIBBUSCH, Heiner: “Tarifpolitische Konkurrenz als gewerkschaftspolitische Herausforderung. Ein Beitrag zur Debatte um die Tarifeinheit”. Op. Cit.



etc. do *not* appear as the systematic outcome of this model.<sup>49</sup> Instead, small unions are accused of “egoistic” or “clientelistic” behaviour, which is said to attack a well-running system. This amounts to denying and neglecting not only the social reality, but also the behaviour of the train drivers’ trade union. The GdL was attacked heavily for professional clientelism, but for its part it wants to be recognized as a sector-wide union – contrary to bargaining only and separately for “employees in key positions”.

### Conclusion

The irony is that the GdL indeed questioned *de facto* the inherent need for competitiveness, but not programmatically. Its resistance to the ruling bloc of employers, government and the big trade unions is heroic, and the possibility to bypass recently passed legislation (at least up to the year 2020) is historic. There is no doubt that the strong backing of the “small” trade union by the public has to be analysed as the expression of widespread suffering at work due to deregulation and strong social degradation. But until now there has been no attempt to expand this dynamic, to bring it together with other industrial conflicts, especially in the public sector, to argue for a social infrastructure in society or to enlarge the request for “dignity” at work. The latter is the slogan that had been put forward in both the railway conflict, but also, and even more loudly during a strike wave in the education and social work sector. For the moment, those kinds of efforts to push for a more general debate about any perspective of a wider social transformation with regard to social needs, living and working conditions or even questions of democracy are generally absent. Thus the neglect of the growing social crisis in Germany by the ruling bloc is not actually challenged and as a result the “mask of ‘success’” continues to function. From outside, but ironically also from within, Germany seems to combine successfully economic “strength” and social inclusion – a myth that puts the finger on questions about capitalist development as a whole.

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<sup>49</sup> DÖRRE, Klaus. “Funktionswandel der Gewerkschaften. Von der intermediären zur fraktalen Organisation”. In: HAIPETER, Thomas; Haipeter; DÖRRE, Klaus (Hg.). *Gewerkschaftliche Modernisierung*. Wiesbaden, 2011, pp. 267-301.



