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German labour legislation strengthens hand of trade unions

On 21 May the Bundestag (parliament) passed the Works Council Modernisation Act. The new legislation makes it easier to set up works councils and provides them with additional powers with regard to the use of artificial intelligence and the organisation of mobile forms of working.

Germany's ruling coalition parties, the Christian Democratic Union (CDU), Christian Social Union (CSU) and Social Democratic Party (SPD) voted in favour of the law, together with the Green Party. The far-right Alternative for Germany (AfD) and the new liberal Free Democratic Party (FDP) voted against. The Left Party abstained, arguing that the act was inadequate and should award even more powers to trade unions.

The new law is designed to strengthen the influence of these organisations in workplaces. The German Trade Union Confederation (DGB), which was involved in drafting the bill, expressed its alarm in 2019 that only 9 percent of German concerns had a works council and only 40 percent of workers in Germany were represented by a works council. Presenting the law in the Bundestag, Federal Labour Minister Hubertus Heil (SPD) proclaimed: "We need more works councils in Germany."



German federal parliament, Bundestag, at the Reichstag building in Berlin, Germany, Wednesday, May 19, 2021. (AP Photo/Michael Sohn)

In fact, the initiative is not about improving workers' rights and incomes, but rather tightening the stranglehold of the trade unions, which exert their influence in workplaces mainly through works councils.

The government and the DGB fear that in the face of growing class tensions, social struggles will develop that they can no longer control. In past decades, the unions played a decisive role in suppressing any form of opposition and organising job and wage cuts as co-managers. Today they have hardly any influence, especially in smaller companies and modern industries such as the IT sector.

Heil openly admitted in the Bundestag that the law was intended to strengthen the trade unions' function as co-managers. He said that works councils "very often, in many cases, now also take on co-management functions in German companies in processes involving crisis and change."

The Left Party claims in its amendment to the law: "Workplace co-determination is a model of success. More than 100 years ago, and after long struggles by workers and trade unions, the Works Council Act came into force." It laid "the foundation stone for workplace democracy."

This is a blatant historical falsification. In reality, the Works Council Act was part of the measures adopted by German social democracy to suppress the revolutionary movement

that threatened to sweep away not only the monarchy but also capitalism after the bloody carnage of the First World War.

In the November Revolution of 1918, workers' and soldiers' councils spread like wildfire across Germany, with revolutionary-minded workers setting the tone. Germany's ruling circles feared that these councils—as was the case in Russia a year earlier—would take power and establish a socialist soviet republic.

The SPD did everything in its power to prevent such a development. The government, led by Friedrich Ebert (SPD), allied itself with the German high command in order to violently put down the workers' uprising and assassinate its leaders, Rosa Luxemburg and Karl Liebknecht. The Workers' Councils Act, which they put forward at the end of 1919-start of 1920, was intended to transform workers' councils into organs of class collaboration.

The word “councils” was a verbal concession to the council movement, but the law intended the opposite. The works councils were obliged to ensure “the greatest possible economic performance of the enterprise” and protect companies from “shocks”—i.e., strikes and other actions by the workers.

Revolutionary workers who had joined the newly formed German Communist Party (KPD) and the Independent SPD (USPD) during the Weimar Republic protested against this obvious attempt to replace the workers' and soldiers' councils with corporatist organs of class collaboration.

In a biography of KPD member Jacob Walcher, the authors note, “On January 13, 1920, Reichswehr Minister [Gustav] Noske and Interior Minister [Wolfgang] Heine, both SPD, had protesting workers shot in front of the Reichstag building on the occasion of the second reading of the law in the National Assembly. Forty two lay dead and 105 were wounded. After this bloodbath, the way was clear for the adoption of the law on February 4, 1920.”[1]

The post-war German Federal Republic continued the tradition of the Weimar Works Council Act. Within the framework of the German system of “co-determination,” class collaboration was regulated and institutionalised by law. As early as April 1946, the

western Allied forces enacted a new Works Council Act. In November 1952 the Works Constitution Act came into force, and in January 1972 it was amended.

The law obliges management and the works council to “cooperate in confidence” and maintain confidentiality. It prohibits the works council from calling industrial action. Instead, it is obliged to negotiate once a month “on contentious issues with a serious intent to reach agreement and make proposals for the settlement of differences of opinion.” (section 74, subsection 2, BetrVG)

This legally regulated class collaboration is directed against workers and any defence of their interests using “measures of industrial action.” This has become particularly clear in the last three decades, during which the situation for workers has deteriorated continuously.

Millions of jobs have been destroyed on a “socially acceptable” basis, i.e., without a murmur. After German reunification in 1990, the trade unions helped decimate the East German economy with instruments such as zero-hour, short-time work and so-called “transfer companies” for those laid off.

The millions of unemployed created were then forced into the low-wage sector in 2004/2005 by the “Agenda 2010” and the Hartz laws introduced by Gerhard Schröder’s SPD-Green Party government. At the same time, many thousands of well-paid jobs in industry were wiped out.

In the wake of the financial crisis of 2008–2009, the unions supported massive bailouts for the banks and subsequent austerity programmes. The German government instituted wage settlements that resulted in real wage losses for many years. The unions were a key instrument for the banks to pass on the consequences of their unrestrained speculative activities onto the working class.

In the course of the coronavirus pandemic, the unions have been the most vigorous proponents of the official “profits before lives” policy, ensuring that production continue during lockdowns, even though workers’ health and lives were at stake. They studiously made sure that a lid was kept on the number of reported COVID-19 cases in factories.

Digitalisation and automation processes mean that another major upheaval is about to take place in production and the service sectors. To implement these new technologies at the expense of workers, the companies need the unions and their works councils. The new law serves this purpose.

For years, the DGB, IG Metall and other trade unions have been arguing that jobs should be cut in the course of digitalisation, employing the same methods used to break up the steel industry and the East German economy: i.e., promises of retraining and re-education within the framework of transfer companies, which retain workers for a short time before releasing them into unemployment. The new law extends the powers of the trade unions in this regard.

Works councils are also being awarded more influence on the “organisation of mobile work” and technical changes in the workplace—including those related to the introduction of artificial intelligence (AI). In smaller companies, whose employees are often young and poorly paid, the establishment and election of a works council is to be made easier.

The procedure for electing a works council and a youth and trainee representation (JAV) will be simplified. Since works councils do not exist in one-third of German companies with 51 to 100 employees, the simplification of the organisation of works council elections are “also justifiable to overcome possible disadvantages resulting from the promotion of ‘splinter groups’ and ‘dubious’ election proposals,” the DGB writes in its statement on the law.

Those who want to set up a works council or a JAV will receive extended special protection against dismissal, which already applies if someone undertakes “preparatory measures for the establishment of a works council.”

The plan is to involve tens of thousands of workplace officials to prevent social struggles and replenish the shrinking ranks of the unions. The membership of the eight unions organised in the DGB has fallen since the turn of the millennium from 7.8 million to 5.9 million last year. Only about one in seven workers is currently a member of a union. The Works Council Modernisation Act is aimed at stemming this haemorrhage.

The government's efforts to strengthen the unions are also linked to the return of German militarism. The German army (Bundeswehr) is being massively rearmed and prepared for military interventions across the globe. Preparations for war against Russia in particular, are intensifying day by day.

Historically, the trade unions have played a criminal role in the militarization of Germany. In the First World War, the unions concluded a truce with the government, suppressed all political and social opposition and sent hundreds of thousands of young workers into battle at the front, where they died senselessly defending the Kaiser and capitalism.

After Hitler came to power, the General Confederation of German Trade Unions (ADGB) sought incorporation into the National Socialist state. On May 1, 1933, the trade unions demonstrated under the Swastika and offered Hitler their cooperation. The latter concluded that he had nothing to fear from the unions and replaced them with the German Labour Front (DAF), which united entrepreneurs and workers in one organisation.

The efforts of the ruling class to strengthen the trade unions is not limited to Germany. In the US, President Joe Biden personally called on Amazon warehouse workers in Bessemer, Alabama, to vote to register the RWDSU union. To no avail, however. In the end only 13 percent of the 5,800 workers at the warehouse voted for the corrupt union, from which they expect nothing other than sellouts and the enrichment of the union bureaucrats.

Just as in the US, the German government is relying on the unions to suppress growing opposition in the factories, plants and offices. The task of the unions is to discipline workers, keep production running smoothly and increase exploitation.

The transformation of the unions into factory police is not simply the result of the undoubted corruption of individual functionaries. It results from the trade union perspective, which recognises capitalist private property, legally regulated class collaboration and competition for markets and profits. As competition on the world market intensifies, the unions line up closer and closer with "their" corporations and governments. Workers who are still members of a union are given no voice. At the same time they are made to finance the bloated trade union apparatus with their membership fees.

In 2018, for example, IG Metall reported that its then 2.27 million members had paid a record 585 million euros in dues, an increase over the previous year of 4.3 percent. Only 40 million euros—less than 7 percent—went to members in the form of strike pay or legal support. More than half a billion euros flowed into the offices, staff salaries, reserves and real estate of the union. The union executive committees, like the works council chairpersons in major companies, receive annual salaries amounting to several hundred thousand euros.

In order for the working class to fight back in looming class struggles, it must organise in different factories, industries and countries in opposition to the ruling elite and corporatist unions. To this end, the *World Socialist Web Site* and the Socialist Equality Party call for the formation of action committees independent of the trade unions in all workplaces and for the unification of such committees in an International Workers Alliance.

Join our Facebook group and participate in this initiative.

Note

[1] Ernst Stock/Karl Walcher: “Jacob Walcher, 1887–1970. Gewerkschafter und Revolutionär zwischen Berlin, Paris und New York,” *Biographien europäischer Antifaschisten*, p. 56

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