German History in Documents and Images

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Labor's Vision of Collective Bargaining (March 1918)

With the passage of the Auxiliary Service Law in 1916, labor unions were allowed to organize in war industries, and collective bargaining agreements were given the force of law for the first time in German history. This document details labor's vision for collective bargaining in 1918.

1.

The arrangement of relations between independent business owners, factory owners, and other entrepreneurs, on the one hand, and workers of all types who are employed by them is subject to free agreement. The arrangement is to take place between the elected representatives of the employers and the representatives of clerical employees and workers who are engaged in comparable work. Existing contracts that have been bargained with employer organizations are to be taken into account.

2.

Working conditions that are agreed to in this way have the force of law for all clerical employees, workers, and employers in the occupations affected within a locality, region, or the whole country. However, in individual cases, agreement on improved wages and working-conditions is permissible by means of a special contract.

3.

In order to reach this agreement on working conditions, all employers who employ workers who undertake comparable labor, and the clerical employees and workers whom they employ in individual localities and districts, are to elect from among themselves a like number of representatives. The election is to be by proportional representation. In the case of agreements that are to be valid for all of Germany, the central representative body is to be formed by representatives elected from the districts. Administrative personnel, both from the employers' and workers' organizations, can also be elected provided that they do not themselves pursue the occupation in question, either as an employer or as an employee. The representatives are to elect a chairman and a vice-chairman and for each of these a deputy. If they cannot agree on the chairman, the judge of the trade court in the locality or district, or his representative, is to become chairman. (Depending on the legal stipulations of the chambers of labor, the election of the chairman may be transferred in this case to the chamber of labor.) The suspension or modification of an agreement reached by the representatives requires three-month's notice.

4.

If the employers' and workers' representatives cannot agree on the provisions of a contract, or if a strike or lockout threatens for any reason in another occupation, a mediation board is to resolve the dispute. This mediation board shall, to the extent that the proposed law on chambers of labor introduces the institution, be identical with the chamber of labor. The invocation of the mediation board must be pursued in all cases.

5.

Any German citizen who is over the age of twenty-five, is in full possession of his civic rights, and has not been restricted by court order in his ability to dispose of his possessions can represent the parties to a dispute before the mediation board. Whether or not the representative has sufficient standing is to be decided by the mediation board at its own discretion. However, no representative can be rejected on the basis that he is not himself a member of the occupation in question.

6.

By interrogating the representatives of both sides, the mediation board is to establish the points of dispute and the facts on which the case is to be judged. In order to clarify these facts, the board is empowered to summon people who can provide information, to interrogate them, and to put them under oath. Each member of the mediation board has the right to pose questions of both the representatives and the people who provide information.

7.

After the successful clarification of the facts, each side is to be given the opportunity in a common hearing to express its view about what the other side has presented, as well as about the testimony of the people who have given information. At this point, an attempt takes place to reach a settlement between the contending sides.

8.

If a settlement is reached, its provisions are to be published in a decree signed by all members of the mediation board and the representatives of both sides. The published settlement and its stipulations are legally binding for the duration of the settlement on all employees and employers in the occupation in question, in accordance with Paragraph 1 of these guidelines. The suspension or modification of such an agreement requires three months' notice.

9.

If a settlement cannot be reached, the chairman and vice-chairman are to publish a summary of the dispute – two summaries, in case of disagreement between the two chairmen – including the reasons why agreement could not be reached. Both parties are free in this case to attempt to enforce their demands by means of a strike or lockout. Recruitment of labor from outside the country is forbidden for the duration of the labor stoppage. The mediation board is empowered at any time to call at its own discretion for renewed negotiations to reach a settlement.

10.

To guarantee the fulfillment of contracts negotiated in accordance with No. 1, a dedicated fund shall be collected out of contributions from both employers and workers. Contributions shall be paid into the fund until the amount collected by each side comprises ten Marks per participating worker. Should the amount in the fund fall below this amount, contributions shall resume until the deficit is eliminated. The fund is to be administered by the parties themselves through their agents. The regular collection of contributions is to be regulated by law.

11.

Claims for damages that arise from the infringement of a labor contract are to be decided by an arbitration board composed of representatives of the employers and workers. The arbitration board and rates of compensation are to be established in the labor contract itself, in accordance with §1. Rates of compensation are not to exceed a sum that is established by law.

12.

All compensations that arise from contract infringement are to be paid exclusively from the dedicated fund, by the party that is required to make payment.

13.

State contracts and contracts from other public corporations may only be given to entrepreneurs who agree to abide by the negotiations and decisions of the arbitration agencies and mediation boards, and who belong to no association that refuses to negotiate with worker's representatives.

Source: Leitsätze zum Tarifvertragsrecht [Guiding Principles of the Labor Contract Law], Historische Kommission zu Berlin, NB 610, p. 24.

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