

Petition

to all union members and officials to those who support the basic rights of workers to associate freely and independently in interest groups in defense of the freedom of association--against the ban on the Free Workers' Union (FAU) Berlin from engaging in union activities

In recent years, German labor courts have time and again tried to cut away at the already limited freedom of association in Germany. In 2007 it happened to the Trade Union of German Railroad Engineers (GdL), who were prevented from striking long-distance and freight trains because of the threat of "enormous financial damages". And then there are the many cases of managers who have tried to thwart union organization within their companies with the help of the courts through so called dismissals on grounds of suspicion.

Labor court decisions favorable to employers have, however, reached a new high point: Courts has massively interfered in a labor dispute at the Berlin Babylon cinema. First the Regional Labor Court prohibited the then anarcho-syndicalist union FAU Berlin from calling for a boycott of the employers, the cinema operator Neue Babylon GmbH. Employee representatives had decided to fight low wages after the cinema managers refused to enter any negotiations. In an interlocutory injunction, the judge explained that the instruments of unions (i.e. strikes, boycotts) cannot be used by the FAU Berlin as it doesn't have the capacity to conclude collective agreements. The cinema then asked for another interlocutory injunction which exacerbated the interlocutory injunction of the Regional Labor Court. In it the Regional Court prohibited the FAU Berlin from continuing to call itself a union or a grassroots union, which is tantamount to a ban on union activities. If the FAU Berlin doesn't remove all references to its union work in its publications, then it faces a fine of up to 250,000 Euros or--if it can't pay--up to six months imprisonment for its secretary. The decisions on labor law reached in Berlin don't only affect the FAU--they affect us all.

According to the International Labor Organization guidelines and according to the European Social Charter, an organization is a union 1) if it is formed by workers of their own free will, 2) if it is independent from the opposing side and 3) if it possess social power, i.e. organizational strength and the ability to exert pressure on the opposing side. The FAU fulfilled all of these point in the dispute over the company agreement with the Babylon cinema. For precisely this reason, the company sought help from the courts. Because of the lack of organizational strength beyond the Babylon, the court questioned the FAU Berlin's union character in this dispute over a company agreement at the Babylon. If such an argument were to become European law, a large number of unions in Italy and the UK would become illegal. All unions organized in sectors, which are only active in certain companies, would be threatened if they could not assert themselves throughout their sector. It would be almost impossible to set up new unions company to company in new sectors which have yet to organize. It would be very difficult for a union to strive to form a general union, as its capacity to conclude collective agreements would only have been proven in sectors other than the ones it wishes to organize.

In a time where working conditions are becoming increasingly precarious, where union membership and the binding effects of collective agreements are disappearing in many sectors and regions, employees need laws they can depend on more than ever in order to resist these trends collectively. The right to join the union of your choice is of fundamental meaning in this light. Current labor case law is increasingly shaping out to be a way to limit this basic right, to make it harder to exercise and finally to thwart it.

In Germany, most of the norms related to labor law come from case law rather than statutes, this means that labor law is constantly developing and can be influenced. That's why we appeal to all members and officials of unions, to all the organizations within unions as well as to their executives, and especially to the German Confederation of Trade Unions (DGB); that's why we appeal to all supporters of the basic freedom to associate in free and independent interest groups for workers: prevent this interlocutory injunction from becoming law. Show your solidarity, even if you don't agree with the FAU's union or political orientation. Our collective basic rights are at risk, we have no choice but to fight together.

Sign and distribute this petition, mobilize your union committees, tell others at your place of work, in the media and in politics. Bring the scandal of the Berlin court's decisions to light.

Berlin, 02/14/2010, translated to English 05/15/2010

Solidarity Committee for Union Freedoms

contact: koalitionsfreiheit@googlegroups.com