



Varieties of Industrial Relations in Aviation Lockdown

Work Package 3: German Industrial Relations pre-Covid19 Report

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Part I: General overview of Industrial Relations pre-COVID-19

Modell Deutschland – Institutionalizing Conflict

As we have indicated in the past (Whittall and Trinczek, 2019), the German system, coined Modell Deutschland by the Social Democrats in 1976 (Hertfelder, 2007), represents a complex post-war arrangement in which most social partners until recently were committed to managing the competing interests of capital and labour. We do not have enough space to provide an in-depth historical understanding of what factors set Germany on this specific “path”, referred to in the work of Hall and Soskice (2001) as coordinated market economy. Suffice to say that the main tripartite actors, the state, employer associations and trade unions constructed a complex regulatory model of procedural channels equipped to accommodate communication between the buyers and sellers of labour.

An acceptance that conflict is an explicit aspect of relations between employers and employees, that is, a rejection of the unitarist approach, ensured the German model is home to legislative parameters designed to create a win-win (Müller-Jentsch, 2017; Imbusch and Steg, 2021). Here, the term mutuality comes to mind when discussing Modell Deutschland. From an employer/managerial perspective, the German industrial relations system requires them to acknowledge employees’ economic citizenship rights, plus that the individual employee finds themselves placed in an economic disadvantaged position compared to capital (Blanke, 2014). A plethora of terms and concepts has been developed to theoretically explain the stability, not harmony, within the German system of industrial relations. Two especially come to mind, *Konfliktpartnerschaft* (conflict partnership) and *Sozialpartnerschaft* (social partnership), terms that have featured widely in the work of Walter Müller-Jentsch (1991, 2016). More recently, Imbusch and Steg (2021) have promoted the notion of *Konfliktfrei Konflikte* (conflict free conflicts) to discuss the nature of industrial action in Germany, specifically inside the LG. These concepts aptly capture the contradictory character of the German industrial relations system. In themselves, these oxymorons represent the following: *“If the cooperation is set up for mutual benefit on a (however*

relative or precarious footing) for a posed duration, then this arrangement is tantamount to a conflict partnership (Müller-Jentsch, 2016: 519).¹

Main Actors & the Role of the State

The fact remains, however, that this is not an effortless arrangement. On the contrary, the actors in question need to be encouraged to buy into the idea of cooperation. At this point, we have to turn our attention to the state's role as an arbitrator both in terms of setting the rules of the game as well ensuring that labour and capital abide by these rules. German industrial relation's legislation, this dating back to the Weimar Republic (Zachert, 1979), prevails to contain class conflict, these represent so-called legislative checks and balances. To this end, it is both a system that grants rights but equally one that sets certain obligations. In addition, the pluralistic character of Modell Deutschland has traditionally ensured such legislation is characterised by a strong sense of collectivism. To demonstrate this point it is worth considering three pieces of legislation integral to the system of German industrial: These include, the Koalitionsfreiheit (Freedom of association), the Tarifvertragsgesetz (Collective Bargaining Act) and the Betriebsverfassungsgesetz (Works Constitution Act). Furthermore, it would be amiss of us, especially in light of developments inside the German aviation industry, if we did not discuss the Einheitsgewerkschaft concept (Unified Trade Union Movement). As will become apparent in section 5, an understanding of these factors is necessary if the report is to provide a comprehensive understanding of industrial relations in the German aviation industry pre-Covid.

Koalitionsfreiheit – Freedom of Association

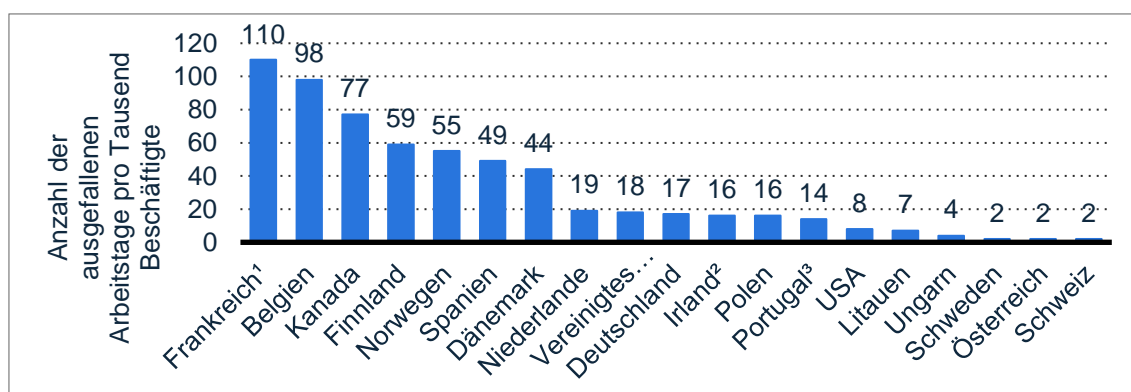
Article 9, Paragraph 3 of the German constitution (Koalitionsfreiheit), recognizes the right of employees and employers to found and join an organization that represents their interests (Blanke, 2014). Regarding employees, the Act guarantees “The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to every individual and to every occupation or profession.” As will become apparent in the proceeding sections, this law has taken on a new meaning since the privatization of the German aviation industry after 1996. Moreover, the Koalitionsfreiheit also lays the foundations for the Tarifvertragsgesetz.

¹ Translated from German by the authors.

Tarifvertragsgesetz – branch level collective bargaining

Article 2, paragraph 1 of the Tarifvertragsgesetz notes, that collective bargaining is the sole domain of trade unions, individual employers and employer associations (Müller-Jentsch, 2018). In this sense the law provides these two actors with a *Kartellfunktion* (cartel function), i.e. a monopoly in setting payment levels and working conditions. This becomes quite clear when considering that both acts, Tarifvertragsgesetz and the Koalitionsfreiheit, guarantee *Tarifautonomie* (free collective bargaining), the sacra cant ideal that although the state sets the legislative parameters governing the interaction of the collective actors, the state itself is not allowed to participate in such negotiations. What's more, certain obligations are attached to this institutional procedure, the main one relating to industrial action, specifically the notion of *Friedenspflicht* (peace obligation). Industrial action is highly regulated in Germany, in terms of time, when a strike can be held, organization, procedures to be followed when calling employees out on strike and impact, the fact that various mediation stages exist to ensure industrial stoppages either never take place or the duration often remains short. As numerous writers have stated, considered internationally this legal arrangement ensures Germany has long been renowned for its low strike rates (Keller, 2017; Imbush and Steg, 2021). This is depicted, excellently in graph 1, Germany recording a total of 17 days per 100,000 employees lost through industrial action between 2010 and 2019.

Graphic 1: Number of strike days lost pro 100,000 employees between 2010 and 2019



Source: Statista (2021)

Combined these factors have traditionally guaranteed, either directly or indirectly, that branch level collective bargaining has dominated German industrial relations.

Directly in that as a member of an employer association affiliates delegate the right to negotiate on their behalf. As table 1 exemplifies, collective bargaining remained a vibrant aspect of German industrial relations until the late 90s. Excluding employees who indirectly benefitted, 70% workers' salaries and terms and conditions were covered by a collective agreement in 1999.

Table 1: Percentage of employees and work places covered by collective bargaining

Employee				Work places		
Year	Total	East	West	Total	East	West
1998	73	63	76	/	30	53
1999	70	57	73	/	27	47

Source: Schulten et al (2020: 15)

Concerning the indirect approach, this involves so-called concept of branch orientation. Here, firms apply the branch level collective agreement even though they are not a member of an employer association, and hence not required officially comply with the terms and conditions set down in collective agreements. According to Schulten et al (2021:18), around half of all employees not directly covered by an agreement worked in firms that based their salaries and terms and conditions set out in collective bargaining outcomes in the early part of 2000s. However, as will become apparent below, together with company specific agreements this phenomena, the indirect approach, has become a more prominent aspect of German industrial relations in recent years.

Einheitsgewerkschaft and Trade Union Density

A discussion of the collective nature of Modell Deutschland, with a particularly emphasis placed traditionally on branch level collective bargaining, would not be complete without flagging up the Einheitsgewerkschaft concept, a concept that has become quite controversial in the aviation industry in the last two decades. After more than a decade in which trade unions were banned and trade unionist oppressed in the 1930s and 1940s, trade union survivors of National Socialism were committed to learning from their historical mistakes, in particular that a divided labour movement was unable to keep at bay the tyrannical forces that emerged out of the Weimar Republic (Schönhoven, 2014; Müller-Jentsch, 2018). The reestablishment of the trade

union movement between 1945 and 1949 involved a concerted effort on the part of trade unionists to create an organizational structure uninfluenced by religious, political and professional leanings – key characteristics of German trade unions from the 19th century onwards. Out of this was born the notion of an *Einheitsgewerkschaft*, also referred to as industrial trade unions (Keller, 2017). This represented a commitment to the ideal of one trade union – one work place. Keller (2017: 16) describes this organizational structure as follows: *In cases where this organizational principle in its purest form exists, competition between trade unions like in the Weimar Republic... no longer prevails. The associations and their collective negotiation are highly centralized through comparatively speaking homogenous agreements. Regional, for example, association agreements represent the dominant instrument for sectoral employee relations.*²

This is not to say that employees have not used the *Koalitionsfreiheit* to set up representative bodies along professional lines, so called *Spartengewerkschaften*, or for that matter refrained from affiliating to main the *Einheitsgewerkschaft* body, the DGB. Currently, there are a total of six *Berufsgewerkschaften* (Bispinck, 2015), two of which organize workers in the aviation industry, the VC and the UFO, both respectively founded in 1969 and 1992. Although their existence represented a break with the notion of the *Einheitsgewerkschaft*, these representative bodies, initially at least, did not threaten the principle of one trade union – one work place. This was because up until the start of the new millennium VC and UFO formed respective collective bargaining alliances with *Deutschen Angestellten Gewerkschaft* (DAG - German staff union) and the *Öffentliche Dienste, Transport und Verkehr* (ÖTV - public sector, transport and traffic union) - both the ÖTV and DAG eventually joining forces to form *Ver.di*. This ensured the DAG and the ÖTV negotiated on behalf of pilots and cabin crew (Imbusch and Steg, 2021), which helped to rein in any inter-union competition tendencies that could undermine the collective nature of bargaining.

Whilst union density amongst *Berufsgewerkschaften* tends to be high, between 50 and 90 percent, the situation in the case of the DGB's eight affiliated trade unions remains quite low: in total around 18.5%.³ Of course, there exists huge differences

² Translated from German by the authors.

³ Schnieder, 2018, 1.

depending on the union and company in question. Whilst the likes of the IG Metall and Ver.di, DGB's two largest affiliates, respectively organizing around 2.1 and 1.9 million employees, even here huge differences exist depending on the size of the company and industry in question. For example, in the automobile industry the IG Metall's density rate is above 80%, whilst in IT is under 10%. Initially reunification resulted in an increase in union membership⁴, more recently though unions have had to contend with a decline in density levels. The number of workers carrying a union card fell from 9.768.373 to just under 6 million between 1994 and 2020 (Statista, 2021)

Betriebsverfassungsgesetz – Works Constitution Act

Although employer associations and trade unions have played an important role in ensuring a high degree of stability within the system of German industrial relations, it would be short sighted of us if we did not mention another institution, the works council, an institution that epitomizes the notion of German social partnership (Whittall and Trinczek, 2019), or as Müller-Jentsch (2019) notes, a central “democratic” element of the social market model. Whilst the Betriebsverfassungsgesetz empowers employees at their place of work, providing them with information, consultation and co-determination rights, it remains an integrative institution too, in that it is obliged to promote simultaneously the interests of both the workforce and the “company”. Although management initially struggled to come to terms with what Winkler (2020: 178) terms the “constitutional factory”, especially after the co-determination element was added to the Betriebsverfassungsgesetz in 1972, both Kotthoff (1994) and Whittall (2015) note that management have come to appreciate works councils, even often viewing this body as the solution rather than the cause of problems.

Although in the case of Germany, somewhat delayed compared to the likes of the USA and the United Kingdom, neo-liberal ideas took hold of the political discourse from the 1990s onwards, reaching its peak with the so-called Agenda 2010 in 2003. As of the mid-1990s both the CDU and SPD governments embarked on a policy of privatization and deregulation of labour markets, two developments that respectively empowered and weakened the negotiation strength of trade unions.

⁴ An explanation for this expansion concerns the fact that the *Freie Deutsche Gewerkschaftsbund* around 9 million members had just before the collapse of the Deutschen Demokratischen Republik.

Changing Collective Bargaining Coverage

The question of Modell Deutschland's robustness continues to dominate academic debate. Although some diversity exists regarding to what extent the system has altered, some writers even questioning the value of concepts such as social partnership (Dörre 2016; Streeck 2016), a position appears to prevail that suggests German industrial relations still benefits some parts of the labour market. As the following section highlights, though, a process of erosion appears to best describe the state Modell Deutschland today. For example, the number of employees benefitting directly from collective agreements, as indicated by the following tables, has declined drastically. In the late 1990s, 73 percent of all employees' employment conditions and salaries fell within the realm of collective bargaining (see table 1). As table 2 exemplifies, twenty years later this had fallen to 53 percent, a twenty percentage point drop in the west of the country.

Table 2: Employee collective bargaining coverage (West) 2005-2020

Year	Total	Branch	Company	No CA	Orientation	No Orientation
2005	67	59	8	34	16	18
2006	65	57	8	35	17	18
2007	63	56	7	37	20	17
2008	63	55	8	37	19	18
2009	65	56	9	36	19	17
2010	63	56	7	37	19	18
2011	61	54	7	39	20	19
2012	60	53	7	40	20	20
2013	60	52	8	40	19	21
2014	60	53	7	40	21	19
2015	59	51	8	41	21	20
2016	59	51	8	42	21	21
2017	57	49	8	43	21	21
2018	56	49	7	44	23	21
2019	53	46	7	47	24	23
2020	53	45	8	47	41	6

Source: Schulten et al (2021: 18)

The situation appears to be even worse when we consider the number of firms participating in collective bargaining in the west, either in the form of branch or company level collective bargaining.

Compared to over two decades ago, currently a mere 28 percent of firms are involved in collective bargaining procedures according to table 3. When measured against table 1, this represents a twenty five percentage point drop.

Table 3: Companies involved in collective bargaining (West) 2005-2021

Year	Total	Branch	Company	No CA	Orientati on	No Orientation
2005	41	38	3	59	22	38
2006	39	37	2	61	25	35
2007	39	36	3	61	26	35
2008	38	35	3	63	26	37
2009	39	36	3	61	25	36
2010	36	34	2	64	26	38
2011	34	32	2	66	28	38
2012	34	32	2	66	27	39
2013	32	30	3	67	30	37
2014	33	31	2	66	28	38
2015	31	29	2	69	29	40
2016	31	29	2	68	27	41
2017	29	27	2	71	28	43
2018	29	27	2	71	30	41
2019	29	27	2	71	30	41
2020	28	26	2	72	31	41

Source; Schulten et al (2021: 19)

Although the overall coverage is lower in the east of the country, the gap between the west and the east appears to have slightly closed, this in part has something to do with the already discussed density rate decline in the former German Federal Republic but also the fact that some degree of stability appears to have taken root. Whilst tables 4 and 5 respectively demonstrate that employee and company collective bargaining coverage has declined in the east, this rate of change has been a lot slower. For example, there has been a mere 8 percentage point drop in company coverage, down from 27 to 19 percent between 1999 and 2020.

Table 4: Company collective bargaining coverage (East) 2005-2021

Year	Total	Branch	Company	No CA	Orientation	No Orientation
2005	23	19	4	77	29	48
2006	24	20	4	76	30	46
2007	24	20	4	76	31	45
2008	24	21	4	75	29	46
2009	23	19	4	77	31	46
2010	20	17	3	80	31	49
2011	21	18	3	79	36	43
2012	21	18	3	79	32	47
2013	20	17	3	80	34	46
2014	20	17	3	80	37	43
2015	21	18	3	79	30	49
2016	22	19	3	79	31	48
2017	18	16	2	81	28	53
2018	20	17	3	80	29	51
2019	20	17	3	80	27	53
2020	19	16	3	82	24	58

Source: Schulten (2021: 21)

Table 5: Employee collective bargaining coverage (East) 2005-2020

Year	Total	Branch	Company	No CA	Orientation	No Orientation
2005	53	42	11	47	23	24
2006	54	41	13	46	22	24
2007	54	41	13	47	24	23
2008	52	40	12	48	23	25
2009	51	38	13	49	24	25
2010	50	37	13	50	24	26
2011	49	37	12	51	26	25
2012	48	36	12	51	25	26
2013	47	35	12	53	28	25
2014	47	36	11	54	27	27
2015	49	37	12	51	22	27
2016	48	36	11	53	25	28
2017	44	34	10	56	25	31
2018	45	35	11	55	24	31
2019	45	34	11	55	24	31
2020	43	32	11	57	35	22

Source: Schulten (2021: 20)

One more variable worth considering involves company size, specifically the number of employees. Altogether there are 16,605 thousand so-called large German companies, firms that employ more than 249 employees. In comparison, small to medium size undertakings, those employing up to 249 employees, account for 2.56 million firms (Statista, 2021). In terms of the employee split, just under 19 million people work for in small and medium size firms compared to around 13.5 million employed in large size firms (Statista, 2021). The relevance of these figures for collective bargaining can be grasped if we study table 6.

Table 6: Branch level collective bargaining according to number of employees 2020.

Employees	West	East
1 bis 9	21	12
10 bis 49	34	22
50 bis 199	42	35
200 bis 499	51	33
500 und mehr	68	49
Gesamt	26	16

Source: Schulten (2021: 22)

As table 6 indicates, there is a strong correlation between company size, number of people employed, and the presence of collective bargaining mechanisms. In short, individuals working in a company employing more than 500 workers are more likely to profit from collective negotiations, which equals higher pay levels and better working conditions, than their equivalents in firms below this threshold. Again, the east appears to be more affected by this process deinstitutionalization.

Company & Site Level Collective Bargaining

A final aspect of union recognition and collective bargaining already flagged up in the previous section that needs to be addressed, one highly relevant to the aviation industry, relates to the surge in union organization along professional lines following privatization and the founding of cross branch general unions since the 1990s. As will become apparent below, this development has the potential to promote inter-union competition and as a consequence whipsawing, i.e. management playing unions off against each other in an attempt to deflate salaries.

Decline and Changing Nature of Works Council Coverage

A weakening in the bonding nature of German IR, though, is not restricted to collective bargaining. The other key element of Modell Deutschland, works councils, have not gone unscathed. The possible decline in influence of works councils can be observed at two levels: Firstly, coverage, the number of people with access to a works council overall has declined. In 2019, the number of all employers represented in by a works council was 40 percent (Ellguth, 2020, 5), 41 percent in the west and 36 in the new states (Ibid: 2), a large decline compared to the mid-1990s. Nearly two decades ago the coverage rate was 51 and 43 percent respectively (Ellguth, 2020: 2). Secondly, in

response to employers' demands to customize collective bargaining agreements, trade unions, partly in response to works councils' tolerance of companies' failing to comply with negotiated agreements, agreed to the introduction open clauses. This concession empowered plant level actors, namely works councils and management. It provided them with rights to customize branch level agreements previously not countenanced. At one level, this development was championed. Depicted as exemplifying the ability of the German Modell to adjust to market demands – representing a reregulation as opposed to deregulation process. Nevertheless, IR actors, in particular trade unions and works councils, would soon discover that they were dealing with a double-edged sword, such empowerment leading to tensions between trade unions and works councils as these new rights have seen the latter take on the role of co-manager.

Summary

So far, this report has outlined the main building blocks of German industrial relations. This represents an institutional edifice designed to promote equilibrium between capital and labour, which not only involves legally ensuring employers have a voice, but equally, certainly in the case of collective bargaining, that such provisions should be binding across branches. As discussed above, though, such a system has had to contend with differing degrees of erosion in recent decades (Hassel, 1999; Whittall and Trinczek, 2019).

Having said this there might be an argument to suggest we are observing different degrees of erosion, possibly even the existence of three distinct forms of industrial relations practices today. Certainly, in larger firms Modell Deutschland, let us call this the traditional system, seems to be alive and kicking both in terms of works council and collective bargaining coverage (Ellguth and Kohaut, 2021; Schulten et al, 2021). Then we have what one might term Modell Deutschland light, decentralized IR interaction channels that have led to a high degree of diversification in pay standards and employment terms and conditions amongst employees. The final development entails “old fashioned organizing”, this rediscovery option involves trade unions and works council trying to get employers to negotiate collective agreements and recognize the right of employees to have a voice. As will become apparent in the

proceeding sections, options two and three appear to describe the industrial relations situation in the German aviation industry. Whilst Modell Deutschland light can be observed within the LG and at Airports, the organizing IR form describes the situation amongst non-German airlines working out of Germany such as Ryanair, easyjet and Wizz.

Part II: Industrial Relations in aviation pre-COVID-19

Industrial Relations in the Aviation Sector – Breaking with Tradition?

Changing market conditions, specifically privatization and the consequent growth in competition, in many respects suggests the aviation industrial relations landscape has broken with key aspects of Modell Deutschland as discussed in the first part of this report. For example, unlike in the traditional system, the dominant traits of employee relations within the aviation industry involve company and site as opposed to branch level collective bargaining, a lack of union recognition, limited access to works councils and some “degree” of inter-union competition. The latter point relates to the so-called predominance of *Spartengewerkschaft*, professional associations, within airline companies. Put concisely whilst post war industrial relations procedures, Modell Deutschland, proffered a high level of security and labour market homogeneity - that is a centralized system of industrial relations, current arrangements in the aviation industry are decentralized and susceptible to social dumping practices.

Turning to consider these factors in detail, the following sub-sections will consider industrial relations firstly in airline companies, specifically Lufthansa. Secondly, within airports, specifically ground handling staff.

Industrial Relations inside Lufthansa.

In the shadow of privatisation the culture of industrial relations within Lufthansa has changed quite drastically in recent decades, evolving from one in which management and employee relations were characterized by the notion of social partnership, pre-2000, to one where the changes demanded by management as discussed above, have resulted in a love hate relationship (Imbusch and Steg, 2021) and intermittently for German standards quite unprecedented levels of industrial action.

In an attempt to provide an exact understanding of how relations have fluctuated between the LG and the three active unions, VC, UFO and Ver.di, it is quite useful here to apply the strike typologies Imbusch and Steg (2021) have developed to analyse industrial action within the LG over the last twenty years. As table eight demonstrates, industrial action within the LG can be broken down into four typologies:

Table 8: Types of Industrial action within the LG

Type of Conflict
Conflict free conflict
Conflict with escalation potential
Escalated Conflict
Uncompromising Conflict

Source: Imbusch and Steg (2021: 184-185)

Although we don't have enough space here to go through all the industrial stoppages in the last twenty years, it is worth considering two of them, Conflict free conflict and Uncompromising Conflict, to get a better understanding of how instable industrial relations have become within the LG. In the first case, industrial action usually revolves around pay. Here, both parties, as was the case in 2004/2006 (VC) and 2012 (Ver.di) accept the right to negotiate over the issue in question, the only point of disagreement concerns the issue of percentage, i.e. how high salaries should increase. Moreover, both parties acknowledge the need to work together in the future – there is a clear commitment to the ideal of stability. In contrast, Uncompromising Conflict, something all three unions were involved in at different times between 2014 and 2019 (to be discussed in the next section in greater detail), involves job losses, collective bargaining procedures and job content. Compared to the previous typology, this form of winner takes all industrial action tends to be emotional. There is an unwillingness to compromise and consequently such strikes lead to heightened mistrust, all of which has lasting consequences for future relations.

The complexity of the industrial relations culture within the LG is caught in the following quote: *In addition, we were continually confronted with collective bargaining conflicts, which in itself we could actually right book about. For all, parties it was a challenge. Negotiating with three unions in parallel, with the cabin crew union, UFO, with which 28 collective agreements were eventually signed, with the pilot union, VC,*

*about a basic understanding about the content of collective agreements, which involved enduring 29 strike days, will hopefully not be repeated. (Volgens. 2019: 73).*⁵

The quote is informative for a number of telling reasons: Firstly, it offers a sense of the agony “endured”, the author’s term, in the realm of industrial relations – something the report will discuss in detail in the next section. Secondly, it offers an insight into the complexity of the collective bargaining topography within the LG, in terms of the number unions involved, three. As well as the sheer number of agreements signed, 29 with UFO alone.

Collective Bargaining Procedures

The above-mentioned complexity is a product of privatization, specifically certain unions’ response to this development and the company’s insistence on company level as opposed to branch level collective bargaining. Although the last point could be construed as misleading due to the fact that collective bargaining takes place across the company, that is, at subsidiary level too. It should also be noted, that although the LG is a member of the BDF, an employer association for German airlines, the BDF plays no recognized role in collective bargaining. As is the case regarding other German employer associations in the aviation industry, the **Arbeitgeberverband der Bodenabfertigungsdienstleister** (ABL) and the **Arbeitsgemeinschaft Deutscher Verkehrsflughäfen** (ADV), the BDF’s function is merely a lobbying one. Although the BDF proudly claims to represent all German airlines, quite unique in today’s German industrial relations world, its influence remains limited.

Concerning the unions, VC, UFO and Ver.di, the advance of multi-unionism emerged towards the end of the 1990s. Although as already highlighted VC and UFO have respectively organized pilots and cabin crewmembers since 1969 and 1992, neither unions functioned as independent negotiating partners until the 2000s. Prior to this period, the unions’ collective bargaining interests were represented by so-called collective bargaining alliances. In the case of VC it fell under the umbrella of the **Deutsche Angestelltengewerkschaft** (DAG) (Imbusch and Steg, 2021), the DAG later amalgamating with other unions to form Ver.di (Keller, 2017). As for UFO it adhered to a similar strategy, it joined forces with *Gewerkschaft öffentliche Dienste, Transport*

⁵ We the authors have translated this quote.

und Verkehr (ÖTV), which was incorporated into Ver.di too (Ibid). The combining of these forces ensured the spirit of Modell Deutschland was assured, a fence was in place that set down demarcation lines to halt inter-union competition.

This construction, however, became threatened after the privatization of Lufthansa in 1997. Firstly, the LG no longer fell under the auspices of the public sector. Now a privately owned company it had the latitude to decide with whom and what level it wanted to enter into negotiations. Clearly, subsequent developments have shown its preference for company and unilateral bargaining. Secondly, another point already discussed, its status as a Plc set the company on an overhaul path: the development of various programmes such as Compass, Placement Process and Rotation, New Workplace, New Bonus and New Pensions (Volkens, 2019: 68), were designed to cut costs in the face of increased competition. These two inter-linked factors, decentralized bargaining and cost cutting measures, ended up being a double-edged sword, though. It helped perpetuate the development of multi-unionism, which as Volkens (2019) noted, proved problematical for the LG at times.

Union Structures and the Power of Functional Elites

In response to LG's "waking up" programmes, VC and UFO decided to become independent collective bargaining partners, to be no-longer subsumed into the newly formed union Ver.di in 2001. In the same year that Ver.di was founded, VC organized a strike to win union recognition within the LG (Keller, 2017). One year later, the LG officially recognised UFO as a collective bargaining party (Ibid). Currently, VC is reported to have a density rate above 80 percent across all airlines in Germany, considerably higher than UFO's 25 percent (Keller, 2017: 20). According to Imbusch and Steg (2021), VC and UFO represented, initially at least, in-house trade unions, that is, they primarily organised pilots and cabin crew inside the LG. However, in recent years, both have broadened their perspective, whilst VC attempts to organise pilots in LCC such as Ryanair, UFO has members working for Condor.

Returning to the double-edged sword notion, Imbusch and Steg's (2021) work on industrial action inside the LG, argue that breaking with previous collective bargaining procedures helped shift the balance of power in favour of the unions. Even given the

LG's commitment to decentralized collective bargaining, a move to address problems specific to the LG, the authors' note, as does Keller too, that VC and UFO to different degrees, VC more than UFO, represent a functional elites within the aviation chain. In short, a plane can neither take off nor land without pilots or cabin crew. Discussing pilots, Imbusch and Steg (2021: 79) note: *In the case of strikes a third party cannot easily replace strikers. Moreover, pilots control a strategic point within airlines, one which traditionally secures them power, influence and codetermination inside the company.*

In the case of Ver.di, a service sector union founded in 2001, unlike VC and UFO it is a member of the DGB. On the whole, it organizes ground handling staff within the LG, Lufthansa Systems, Lufthansa Service Group, Lufthansa Technic and Lufthansa Cargo (Germany). However, it also started to organize cabin crew and pilots working for Lufthansa German Airlines and Eurowings, which actually brings to the fore the issue of inter-union rivalry.

Inter-union Competition – Challenge to the Principle of the Einheitsgewerkschaft?

The lack of any respected demarcation lines has created a degree of friction between the three unions at different times, especially amongst Ver.di and UFO, the former bargaining on behalf of the LG cabin personnel until 2002. The following UFO press release, titled “In cold times Eurowings cuddles with Ver.di” (UFO, 2016), offers an insight into the frosty nature of relations between the two unions and the fact that they both have members amongst Eurowings' cabin crew. In the press release, UFO accuses Ver.di of signing an agreement that fails 1) to ensure Eurowings contributes to pension provisions, 2) address the problem of temporary employment contracts and 3) to provide employees with a fixed workplace, i.e. an airport which employees can call their base. In addition, the fact that Ver.di as opposed to UFO organizes all Ryanair the cabin crew has not helped de-escalation of tensions between the two unions.

However, such frostiness is not immune to a warm weather fronts. At times Ver.di and UFO, together with VC have joined forces to release joint declarations. In April 2018, the three unions called on the LG to reassert its commitment to the ideal of social partnership and collective bargaining. This was in response to Lufthansa City Line's management threatening to impose cost saving concessions during

negotiations (Ver.di, UFO and VC, 2018). In the press release, VC, UFO and Ver.di argue that management's strategy is designed to divide the workforce.

The three unions, however, do attempt intermittently to work together. It is difficult to judge the sustainability of such an arrangement. For example, Eurowings pilots have indicated a preference to be represented by Ver.di as opposed to the VC, a fact that more than anything reflects the internal competition between pilots within the LG, in which low cost pilots view VC as very much the representative voice of Lufthansa pilots. Nevertheless, overall the three unions are aware of the pitfalls associated with inter-union. For example, inter-union solidarity prevailed when each union opposed the government's passing of the *Tarifeinheitgesetz* (Collective Bargaining Unity Act) in 2015. Certainly, UFO and VC conceived the new law as a direct threat to their bargaining position. Ver.di viewed the new law as a potential threat too, vehemently arguing the law undermined a key union principle, the freedom of association as set down in the German constitution.

Summary

From an industrial relations perspective, the main tenants of a functioning system can be observed within the LG. Unions are recognized, works councils exist⁶ and collective bargaining is a central element of employee relations. Unlike, LCC such as Ryanair, LG employees did not have to contend with an industrial relations waste ground, the well-established mechanisms required to facilitate interaction between competing labour market interests in place prior to the company being privatized in 1997. Nonetheless, it needs to be recognized that free-market developments have not left the LG industrial relations unscathed. Firstly, the IR procedures that have evolved in the last twenty years represent a model that in two key respects differs from Modell Deutschland. This involves the fact collective bargaining takes place at the company as against the branch level and consequently this has led to the domination of multi-unionism. The notion of one site-one union does not apply. Furthermore, these arrangements have not stopped the forward march of social dumping practices. Certainly, since the LG set up its own LCC division and resorted to wet and dry leasing

⁶ We have purposely for reasons that hopefully become clear left any discussion about works councils to be addressed in the final section of this report.

practices, differentiation in employment terms and conditions have become a key element along its value chain.

[The emergence of Industrial Relation's Procedures within Ryanair Germany](#)

Ryanair represents an anomaly for German trade unionist accustomed to union recognition, collective bargaining and the presence of works council at site level. As discussed in the proceeding quote, like in other countries the Irish based Airline has traditionally opposed any form of employee representation in Germany, fearful that the existence of industrial relations institutions would challenge its low-cost business model.

[Ver.di Collective Agreement](#)

After many years of talks, numerous strikes and negotiations, Ver.di achieved the impossible - Ryanair signed its first collective agreement with Ver.di in March 2019. The first major breakthrough occurred in July 2018, Ver.di and Ryanair signing a recognition agreement, which according to Christine Behle, member of the Ver.di's general assembly, represented „a first historical step towards achieving better working conditions” (Ver.di, 2018).

In the months that followed the recognition agreement, Ver.di set about organizing around 1100 cabin crew working for Ryanair in Germany, which eventually resulted in the union calling members out on strike at the end of September 2018. According to Ver.di, organizing Ryanair employees took time, it involved cultivating the anger that had built up over many years regarding the poor working conditions within the airline.

After various rounds of negotiations, this industrial stoppage seems to have strengthened the union's hand, both parties agreeing to the following: Firstly, it ensured that employees, including temporary agency workers, working for Ryanair would be subject to German employment law. This ensured employees would benefit from dismissal rights as well as sick pay pertaining to German law. Secondly, running from November 2018 through to March 2021, the contract guaranteed employees a 600 Euro increase in their basic salary, a minimum of 600 hours working time a year and finally a redundancy provision (Ibid). Although the union acknowledges there is much room for improvement regarding the eventual settlement, the symbolic relevance of such an agreement should not be underestimated.

VC Collective Agreement

Similarly, VC also undertook industrial action to force Ryanair to the negotiation table, calling on pilots working at 12 German airports to go on strike from 3.00 o'clock on 12th September 2018. The union would go onto organize a further two days of industrial action on 28th and 29th of September, these coinciding with the Ver.di strike. The subsequent collective agreement, signed in September 2019, achieved a number of things.

Like in the case of the Ver.di, contract pilots were now covered by German as against Irish employment law. Moreover a willingness prevailed to negotiate other employment terms and conditions as well as the possibility of setting up a works council with the use of the collective bargaining agreement. Obviously, this last point became obsolete with the amendment of the Works Constitution Act in 2019.

Fighting the Bogus Employment of Pilots

VC, though, has not restricted its work to simply fighting for 1) union recognition, 2) an improvement in employment terms and conditions and 3) codetermination rights. The union has also attempted to address its open-flank, bogus employment practices amongst pilots. The fact that many pilots are fictitiously self-employed.

As was to become apparent in 2015, the last point, making national authorities aware of this practice, started to bear fruit for the VC. In that year, the Public Prosecutor's Office in Kassel raided a number of Ryanair pilot's home. This resulted in the pilots being accused of aiding and abetting social security and tax fraud. According to the union, this led to a 150 criminal proceedings in total. Such move not only helped undermine this practice it also functioned as a springboard for VC to win new members inside Ryanair due to the fact that the union agreed to offer the affected pilots legal support. This involved the union waiving the prevailing rule that members only had access to legal representation three months after joining union: *'The pilots became members on Monday and on Tuesday we started to pay the lawyers (VC officer)'*. According to the VC, symbolically this represented a huge act of solidarity on the part of existing, mainly Lufthansa members.

Industrial Relations inside German Airports – Ground-Handling Staff.

As already highlighted, airports, often at the behest of carriers, have had to change their business strategies in the face of privatization. As indicated on page 19, though, the process of market liberalization has not resulted in total retreat of the state. With the exceptions of Berlin and Düsseldorf, the state continues to have a controlling stake in non-regional airports. However, this ownership structure has not functioned as a firewall against either social dumping or a decentralisation of industrial relations practices.

Here, the airlines appear to have the upper hand, especially the LCC, which as we have seen has had repercussions for carriers such as the LG. This involves airports competing for routes, something that has become fiercer with the growing importance of regional airports such as Frankfurt Hahn, Lübeck and Memmingen.

Hence, even when the state has a controlling stake in airports, as in the case of Frankfurt and Munich, such sites have had to resort to social dumping practices, either by outsourcing services to third parties or setting up their own subsidiaries.

Collective bargaining

The mosaic metaphor explains excellently the form collective bargaining arrangements in the ground handling market. As already noted, airports and providers of ground handling services are members of employer associations, ADV and ABL respectively. Like airlines, these two organisations currently function as lobbying bodies, they do not negotiate on their affiliates' behalf.

Prior to 1996, the ÖTV (Ver.di's predecessor) and ADV negotiated branch level collective agreements that covered all German airports. Liberalization, however, especially the emergence of subsidiaries and third party service providers, ensured "100s of firms on the German market existed that did not have a collective agreement" (Ver.di officer). Currently, collective bargaining takes place between Ver.di, which organizes more than 50 percent of all ground handling staff, and individual firms, be this the airport, subsidiaries' of the airport or third party service providers.

The complexity involved here can be gleaned by focussing on one company, WISAG, which has contracts at the following airports, Düsseldorf, Köln-Bonn, both the Berlin airports, Nurnberg and Hamburg. As the following respondent notes, though,

even given Ver.di's attempt to negotiate a company agreement covering all WISAG employees in Germany, the fact that WISAG has at least ten subsidiaries has made this high impossible.

Summary

Similar to the situation in the airline industry, or rather because of the situation in the airline industry, employee relations and employment conditions further down the value chain, namely at the airports, remain quite precarious. However, like cabin crew employees, ground-handling staff even given the predominance of site level collective bargaining continue to benefit from a tried and tested industrial relations machine.

The Resetting of Industrial Relations Practices within the Aviation Sector – What does this Mean for the German Model?

As alluded to on numerous occasions in this report, there has been much debate about the strength and nature of German industrial relations in the last two decades. The fall in barriers pertaining to the movement of goods, services and people, especially apparent within the EU realm, this part and parcel of a free-market agenda, have posed challenges to centralised and highly regulated IR systems such as Modell Deutschland. Due to these exogenous tendencies - two developments have been observed. Firstly, in the case of traditional German IR a degree adaptation has taken place, that is to say the key tenants of the system remain, specifically the actors, trade unions, employer associations, works councils and state legislators. Nonetheless, a shift in procedures has occurred, with actors nearer to the point of production designated far more negotiating influence. Then there is the barren landscape scenario, especially prevalent in branches overly dependent on migrant and female labour, such as care work, construction and food processing. Here, on the whole employees are left to their own devices, devoid of any form of collective representation.

What about the IR in the German aviation industry, though? Currently, it appears to fit neither into the adapted or non-existent models, rather a hybrid of both. For example, certainly some pilots, those mainly working for German airlines, and ground handling employees still benefit from a strong IR infrastructure. Trade union

membership density is high and works councils exist to compliment collective bargaining practices. Of course, such arrangements involve company and site as opposed to branch level bargaining as the point of interaction. Then there is the opposite set-up amongst non-German airlines. Nevertheless, as will become apparent in the following sections a process of revitalization, or as one union officer suggested, “attempts at repairing” the system are underway.

In reverse order: Firstly, trade unions have made some inroads in organising pilots (especially pilots employed under bogus employment contracts) and crewmembers of non-German airlines, this leading even to a degree of union recognition and the first steps towards collective bargaining. Secondly, the unions, sometimes jointly, have fought 1) to provide pilots and cabin crew access to works councils, 2) organize an unprecedented number industrial stoppages, 3) signed collective agreements with Ryanair and 4) campaigned for branch level collective bargaining for ground handling staff. The report will now turn to consider these four factors respectively.

Amending the Works Constitution Act

In September 2018, the Hessen employment court found in favour of the LG in refusing to allow SunExpress pilots and cabin crew to set up a works council. The court made this ruling after VC and UFO called a meeting of SunExpress pilots and cabin crew working out of Frankfurt airport to elect an electoral committee necessary to set in motion procedures required to hold a works council election in March of that year. Responding to the court's decision, VC released a press statement in which it argued: *We are disappointed with the ruling of the Hessen employment court. We were hoping that the court would adhere to European standards to allow the election to take place. It is not fair that an airline with more than 1.000 employees cannot use European law to push through codetermination, whilst in the case of ground handling staff this is possible. (VC, 2018)*

Until 2019, an anomaly existed in German employment law concerning the Works Constitution Act. Even though the Act allows employees working in an establishment with five or more workers to found such a body, Article 117 of the same law excluded pilots and crew personal from such rights. The only channel open up to pilots and cabin crew was to have such right laid down in a collective agreement. The fact that

SunExpress, initially at least, either refused to accede to such a request, or in the case of LCC like Ryanair to even enter into collective negotiations, meant that many employees had no legal right to this form of plant level representation.

Although SunExpress eventually agreed to sign a collective agreement that would open the door to a works council, this move proved to be superfluous, as the Bundestag agreed to amend Article 117 to ensure airplane crew now fell within the Act's remit in 2018. As the following quote suggests, the change in law was the culmination of a joint lobbying effort on the part of Ver.di, VC and UFO.

The amendment of the Works Constitution Act towards the end of 2018, valid as of May 2019, represented the closure of huge hole in German IR pertaining to the aviation industry. Considering how historically works councils have played a key role in encouraging workers to become union members this could be considered an important step in slowing down the aforementioned erosion process – certainly that is the interpretation promoted by the affected unions in question, VC, UFO and Ver.di.

Industrial Action within the LG aviation industry

As already alluded to in section 4, the employee relations' culture within the LG has been soured by a number of well-published industrial stoppages over pension entitlements and cost cutting exercises. Imbusch and Steg (2021) note, that the LG has been plagued by strikes since privatisation, in total VC, UFO and Ver.di have organized 82 strikes (Ibid: 88). As indicated in the next table industrial action was most prevalent amongst pilots and cabin crew, that is, VC and UFO members respectively.

Table 9: Strikes within the Lufthansa Group between 2000 and 2020.

Year	2000/01	2002/3	2004/5	2006/7	2008/9	2010/11	2012/13	2014/15	2016/17	2018/20
VC Strikes	4	0	0	4	5	2	0	14	6	0
UFO Strikes	0	0	0	1	6	0	3	8	3	7
Ver.di Strikes	1	1	0	0	6	0	2	0	0	0

Source: Imbusch and Steg (2021: 89)

VC Industrial Action

Until 2014, the number strikes remained moderate. This changed, though, in the period 2014 to 2016, when pilots working for Lufthansa Germany, Lufthansa Cargo and Germanwings participated in a series of well documented stoppages. This phase of industrial action was brought about by the LG cancelling the retirement and pension collective agreement at the end of 2013, an agreement that until then guaranteed pilots could retire at 55 on 60% of their final salary (Imbusch and Steg, 2021). The issue at hand went back to an old question regularly raised by management after privatization, albeit more often since the arrival of LCC, namely that pre-privatization employment terms and conditions undermined the firm's competitiveness (Schecke, 2019). After 14 strikes and nearly 15,000 cancelled strikes, which cost the LG something in the region of 500 million Euro, the two parties, the LG management and VC, entered into arbitration and reached a compromise in 2017 (Ibid: 96). This involved the following: a staggered 10% pay increase and more importantly a change in the retirement provisions. The new arrangement saw the concept of defined benefit, that is, a guaranteed pension sum, replaced by the defined contribution system, any final figure dependent on what employees and employers had paid into the pension scheme (Ibid). From a management perspective this new method allowed the LG to take into account market changes that could impact the firm's turnover. In addition, it was agreed that by 2021 pilots' retirement age would be increased from 55 to 60.

UFO industrial action

Like the pilots, UFO was also forced to take industrial action to defend their pension rights, eventually agreeing to the defined contribution notion too - but a year earlier in 2016. As table 9 demonstrates, though, UFO members' willingness to strike surpassed 2016. The cabin crew union has also organised strikes in Eurowings and Germanwings regarding pay levels, industrial action which eventually culminated in the "Growth" collective agreement. The contract ensured that 1400 cabin crew employees 1) received a pay increase, 2) were allowed to participate in a profit sharing scheme and company pension contribution schemes (airportzentrale.de, 2017).

Verdi industrial action

As table nine highlights, VC and UFO were not alone in calling their members out, Verdi has organised various industrial stoppages in the last two decades, too. In fact, the LG holds a special place in the union's history. Officially founded in March 2001, the union's very first strike involved the LG it that same year. Although Ver.di would be involved in a number of small skirmishes in 2013 and 2017, respectively concerning pensions and the "Growth" collective agreement⁷, the year that really sticks out is 2008. Representing around 50.000 ground and cabin personnel, Ver.di organised numerous strikes to guarantee pay increases kept up with the cost of living (Tagesspiegel, 2008). Although, Ver.di demanded a pay hike of 9.8 percent for twelve months, the eventual collective contract, running out in 2010, agreed to an initial 5.1 increase backdated to July 2008, a further 2.3 percent rise in July 2009, plus an added clause that guaranteed a 2.4 percent onetime payment (New York Times, 2008). According to Imbusch and Steg (2021), 2008 also culminated in Ver.di ending its strategy to negotiate jointly on behalf of ground and cabin staff within the LG. In the years that followed, Ver.di's representation of its ground handling members is described as moderate in response to growing competition from third party service providers (Ibid), tending towards a policy of concession bargaining. For example, the collective agreement in May 2013, which introduced for the first time a moving pay scale of between 1.5 and 2.7 percent, involved albeit the LG agreeing to no forced redundancies (Ibid: 99).

The Branch Level Collective Bargaining Struggle for Ground Handling Staff

Finally, the report will end this section by retuning to an issue already discussed in some detail, the proliferation of company and site collective bargaining amongst ground handling staff. As the following quote outlines Ver.di has developed a strategy over the last seven years, the *Bodenverkehrsdiensstkampagne* (Ground Handling Campaign), to turn back the clock. The aim of the campaign is to force employers to negotiate a branch level collective agreement.

⁷ Ver.di ended up agreeing to the "Growth" proposal put on the table by management, too, this without having to strike. On signing the agreement, Ver.di members received just over a 6 percent pay increase, 2.5% in October 2016, 2.5% in 2017 and final 1.5 % in October 2018 (Ver.di, 2016).

Although the issue in question surpasses the timeframe of the current report, that is, the period prior to Covid, plus signing of a branch level agreement is still to be negotiated, the foundations for this development were laid down in 2018. The issue in question concerns the setting up of the ABL, an employer association whose message statement openly favours branch as against company/site level collective bargaining. As the following quote suggests, Ver.di played a key role in convincing companies such as WISAG, AHS and Losch, that the current competitive practices, one that pitches ground-handling operators, be these airports, airport subsidiaries and third parties against each other to meet the needs of airlines, only creates losers.

In addition, another key element of this campaign involved close working relations with local union and works council officers responsible for the existing company/site collective agreements. A key aspect of this work has been the coordination of existing collective agreements – not an easy task considering the large number of collective agreements as well as the fact that ground handling staff are represented by different works councils.

The existence of various union platforms, as well as the fact that Ver.di dominates the works council election lists, that is most works council members are signed up union members, played a central role in the *Bodenverkehrsdiensstkampagne*. One such body that facilitates exchange between the various works councils, which formed the basis for developing a collective position, is the *Bundesfachgruppenvorstand* for aviation (the national board for aviation). It was this committee, one made up of works council chairs from each of the organised companies, which ensured all existing collective agreements would be terminated in 2022, and this laying the ground work for branch level collective bargaining. Only time will tell whether this unusual alliance between Ver.di and ABL can achieve its goal in 2022 – nevertheless it certainly represents an innovative exercise to stem social dumping practices currently rife in the German aviation industry.

Conclusion

Understanding the nature and state of industrial relations in the German aviation industry is no easy task as it has all the traits of a poltergeist trapped in the middle of two competing tendencies. At one end of the spectrum the impact of liberalisation, that is, the privatization of Lufthansa, the country's main flag carrier as well the arrival of

low cost carriers such as Easyjet and Ryanair, has created a precarious labour market and industrial relations vacuum. Although heightened competition has achieved the European Commission's two key aims, market growth and increased mobility, this liberal market model has sowed the seeds: bogus employment contracts, measures to circumvent German labour law and national insurance contributions, a greater dependency on the minimum-wage as well as an unwillingness on the part of some employers to recognise trade unions as well as countenance works councils.

At the other end of the spectrum the existence of the so-called dual model, that is, works councils and trade unions working in unison, remains a barrier against the aforementioned precariousness experienced by many employees working in the German aviation industry. Nevertheless, whilst such a state of affairs remains far removed from the industrial relations wasteland scenario discussed in this report, it still falls well below many of the bench marks set by Modell Deutschland in the Post War years. For instance, though the number of firms organized in employer associations is high, the role of these bodies is far removed from the traditional arrangement whereby such membership prescribes a strong branch level collective bargaining bonding. In the German aviation industry employer associations have been side-lined in the last twenty years, reduced to offering advice and lobbying services. Collective bargaining is solely the domain employers and the respective trade union, which has helped create a highly decentralized collective bargaining landscape. Here, the existence of company and site level collective agreements promotes both internal, i.e. between employees of the same company, and external, between firms, competition over wages and employment conditions. The report also highlights that such a collective bargaining composition has affected the nature of trade union organization – challenging the long established notion of *Einheitsgewerkschaft*, namely the ideal of one plant one union. Thus, the emphasis placed by aviation firms on staying ahead of the competitive curve by reducing labour costs has at times pitched the likes of VC, UFO and Ver.di against each other as they resort to concession bargaining in a scramble to keep their members in employment.

However, the report also uncovered what might be called the grass root's scenario, or rather scenarios whereby a revitalization of Modell Deutschland and the early foundations of employee representation can be observed. Let us consider these in

reverse order. Certainly, what can be termed organising, winning new members and calling members out on strike, has aided unions' attempt to plant the first trees in what was once an industrial relations wasteland. These are early times, but union recognition and the first collective agreement in LCCs such as Ryanair, represent a huge, if only symbolic, breakthrough that has raised the expectations of LCC employees and forewarned employers of what awaits them. Next, evidence presented in the last section exemplifies unions' commitment to reversing the deregulatory tendencies of recent decades. This they have done this in part by reasserting the importance of the dual system, i.e. ensuring the Work Constitution Act accommodates pilots and cabin crew but equally as in the case of Ver.di, promoting a campaign to force ground handling employers sign a branch level collective agreement. Of course, these silver linings are predicated on what has been referred to in this report as the functional elite, the fact that trade unions have access to power resources able to ground airplanes. This naturally raises a pertinent question which future research will have to address: is such a strategy sustainable in the face of a crisis such as Covid?

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