



Press Release

CAN THIRD PARTIES AFFECTED BY A STRIKE SUCCESSFULLY SUE TRADE UNIONS FOR DAMAGES?

Munich, 24 August 2015 – Tomorrow, the Federal Labour Court shall deal with a case where the question arises if third parties affected by a strike, here several airlines, can sue a trade union for damages for twice having given notice of a strike (file ref.: 1 AZR 875/13). Air traffic controllers organised in the trade union intended to strike and this had significant implications for the airlines. They sued the trade union for damages because existing flight bookings had been cancelled and new flight bookings had not been made due to the notices of strike. Flights were either delayed or had to be rescheduled. Moreover, expensive precautions such as, for instance, the drafting of emergency plans had to be taken.

"Should the judges render an affirmative ruling regarding a claim for damages of affected third parties against the trade union, such a decision would be a milestone in strike legislation", said *Wolfgang Lipinski*, labour law specialist at the international commercial law firm BEITEN BURKHARDT who represents relevant clients. "The trade unions would be forced in advance of a strike or the threatening with it to examine even more intensively whether the planned strike action is lawful. Unfortunately, unlawful strikes happen time and again and cause substantial economic damage, also for third parties who must also be given the opportunity of settling their damage claims", believes the lawyer.

Furthermore, the Federal Labour Court will have to address the issue not yet resolved by the German Supreme Court whether a trade union may drop unlawful strike demands before the strike is actually carried out in order to avoid a damage claim in this regard. "This issue is extremely relevant in practice as according to the case law of the Federal Labour Court an unlawful collectively bargained wage demand renders the entire strike, including its lawful collectively bargained wage demands unlawful, thus leaving massive claims for damages against the trade union", says *Lipinski*.

Dr. Wolfgang Lipinski is Labour Law Specialist and Partner at BEITEN BURKHARDT's Munich office. He is a recognized expert for



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collective bargaining issues and German strike law and represents numerous renowned clients throughout the country.

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