Social Partnership in Times of Crisis – the German Way

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With economists speculating that the Corona pandemic will push the German economy into recession, the government and social partners took no time to consider a list of short-term measures to help shore up companies and offer employees a degree of financial security. On 13 March, the DGB (German Trade Union Confederation) general secretary, Reiner Hoffmann and the BDA (Confederation of German Employers' Associations) president, Ingo Kramer, released a joint press statement declaring their commitment to work together in these times of crisis. Noting that they had a blue print to deal with such a catastrophe, a clear reference to their cooperation during the 2008 and 2009 financial crisis, the DGB and BDA noted, *"Although conflict and opposing interests remain, in special situations these are pushed into the background."* Certainly, these combined forces contributed to the passing of several key pieces of legislation in record time. In addition to tax liquidity support and the provision of additional, state-guaranteed credit facilities for companies, two laws have been widely discussed in the media. These involve the Sozialschutz-Paket (social security package), a move to financially support for employees and the Corona-Soforthilfe für Kleinstunternehmen und Soloselbständige (Immediate support for small companies and the self-employed) law passed to alleviate the losses incurred by small companies and the self-employed as a result of lock-down measures.

A central aspect of the social security package, one that has caught the media's attention, concerns article 2, that temporary regulation of short-time working. The law represents an amendment of the Drittes Buch Sozialegesetzbuch (Third book of the social security book), which now allows firms to initially reduce employees' working hours to zero between 1 April and the 31 October 2020. In cases where employers successfully apply to the Agentur für Arbeit (Federal Employment Agency) for short-time working, employers with children receive 67 percent of their net salary for the hours lost and a 60 percent rate applies to employees without children.

In particular, the DGB has welcomed certain alterations to the short-time working law in favor of employees. Firstly, that the employer is solely responsible for repaying national insurance contributions relating to the hours not worked during this period. Secondly, that in contrast to the 2012 revision, temporary agency workers are now covered by the short-time working law. Prior to applying for such assistance, however, companies are required to attain an employee's written approval, or that of a works council, to introduce a short-time working program. According to the DGB, works councils have to consider an array of issues. These include, current regulations, that is, collective agreements that might have a short-time working clause, the beginning, end and coverage of the proposed agreement, the use of working time accounts, training during this period as well as how management proposes to keep the works council informed about developments during this phase. In the case of collective bargaining, for example, various agreements currently exist which commit employers to surpass the 67 percent ceiling set by short-time working legislation. In the case of the Metal and Chemical branches, some agreements guarantee employees up to 97 or 90 percent of their net salary respectively, according to research undertaken by the Hans Boeckler Stiftung. Conscious that an increasing number of employees are not covered by collective bargaining agreements, the DGB has called on the government to raise the current short-time working cap of 67 percent to 80 percent. In a similar vein, the DGB unsuccessfully lobbied the government to pay parents unable to work because of a lack of childcare support 80 percent of the net salary. Presently, the newly amended Infektionsschutzgesetz (infection law) ensures that such parents are entitled to 67 percent of their net pay.

Furthermore, the corona pandemic has seen the IG Metall, Germany's largest trade union; develop a document to remind works councils of their rights. The document notes, that the Corona crisis should not be used as an excuse on the part of management to sideline the German Works Constitution Act. This comes in response to unofficial reports that management have attempted to force works councils to sign an agreement in which they waver their codetermination rights. The document offers works councils practical advice on how to manage changes in working practices brought by these unusual times, especially the increased tendency of many employees to work from home. Where firms either encourage or allow employees to take advantage of mobile working practices, defined as an area other than their usual place of work, works councils need to ensure firms adhere to the following parameters. Firstly, where possible, all members of the workforce should have access to such an option. Secondly, employees need to be provided with the necessary equipment to take advantage of mobile working options. Next, measures need to be in place to ensure normal working time practices are adhered to, such as limiting the number of hours worked, controlling rest periods and the correct recording of working time.

Social partners also welcomed the 50 billion financial package to alleviate the economic woes for small companies and self-employed. This immediate program is structured in such a way that firms employing up to 5 and no more 10 employees receive a single payment of between Euro 9,000 and Euro 15,000 respectively for a period of three months. In addition, employer and employee representatives have called on the government to develop post-corona crisis plans to relaunch the economy. To ensure liquidity exists for struggling companies, the social partners agree that the government should be encouraged to reverse its stringent economic policies put in place to reduce the country's national debt. Taking on new debt would allow the government the necessary finances to shore up firms facing insolvency – potentially in the form of a partial nationalization of such firms. Other so-called rehabilitation measures include investment in Germany's infrastructure as well as the creation of consumer checks and an increase in child benefit – factors that could create new jobs and readdress a slump in consumers' purchasing power.

As with the unification of Germany and more recently the financial crisis, the corona virus once again appears to demonstrate the corporatist power of German industrial relations. In times national crisis the social partners come to the country's rescue. Certainly, the speed at which new legislation was passed to alleviate the economic fallout of the current crisis owes much to this united front. How valid, though, is this portrait of a flourishing social dialogue between employer and employee representative bodies? To what extent does such an historic moment merely cover up deep lying cracks in the German industrial relations edifice that existed prior to corona? The fact that the heroes of the day, front line medical staff fighting to save lives, shop workers keeping supermarkets open and logistic employees delivering essential supplies were undervalued until recent weeks, both in terms of their status and salaries, tells a different story. As Reiner Hoffmann, general secretary of the DGB, has suggested, German social partnership should not only thrive in times of crisis. On the contrary, social partnership needs to guarantee employees, individuals who often live on the fringes of society, workers who are currently helping us to get through these unprecedented and difficult times, the right to a living wage, trade union and works council representation as well as employment security.

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