

## 3

# Solidarity as a Central Aim of Collective Labour Law?

*Reingard Zimmer*

### 3.1 INTRODUCTION

Solidarity is one of the rights that the Charter of Fundamental Rights of the EU (CFR) mentions as a central value in its preamble and it is the title of Chapter IV, which contains Art. 27 (workers' right to information and consultation within the undertaking) and Art. 28 (right of collective bargaining and action), central rights of collective labour law. The protection of the weaker party is the central idea, both in individual labour law and in collective labour law. But to which extent does that include the idea of solidarity? If solidarity would be the basic idea of the concept of collective labour law, this would imply a strong social approach. The following elaboration looks for an attempt of a definition and analyses the components of solidarity in collective labour law based upon European and German Labour Law.

### 3.2 ATTEMPT OF A DEFINITION

#### 3.2.1 *Solidarity in History*

Signs of the concept of solidarity can be found very early in history. Already in Roman Law, which was developed between the middle of the fifth century BCE and the third century CE as a general set of rules carved in stone, there is to be found the principle 'in solidum'.<sup>1</sup> This could be interpreted as an early thought of a community of solidarity. In younger history, 'freedom, equality, fraternity' was the battle cry of the French Revolution and in the post-revolutionary nineteenth century, the category of solidarity moves to the centre of theories of social gratitude, as proclaimed for example by Auguste Comte.<sup>2</sup> In solidarism, solidarity even became the

<sup>1</sup> Which could be translated, 'all for one and one for all'.

<sup>2</sup> Comte, 1891, p. 215.

yardstick for a sociopolitical reform movement.<sup>3</sup> In Germany, the social democrats developed in the meantime an extremely differentiated social-oppositional social-democratic club culture, which proved for their leader, Karl Liebknecht, that the working class would not only be able to take power, but also to culturally form society.<sup>4</sup>

### 3.2.2 General Definition of Solidarity

If we look at current definitions of solidarity, the online dictionary for example uses a wide definition, defining solidarity as ‘arising from common responsibilities and interests, as between members of a group or between classes, peoples, etc.’,<sup>5</sup> similar to the definition of the most notable German dictionary *Duden*, where solidarity is seen as an absolute (social) cohesion with someone based upon the same opinions and aims.<sup>6</sup> Common identity and common interests are thus defined as starting points for a definition of solidarity.<sup>7</sup> This reminds of Durkheim’s ‘mechanical solidarity’ of older, less structured, segmental societies<sup>8</sup> and might serve as a point of departure, though further elements have to be added. Solidarity implies up to a certain point the abstraction of own interests.<sup>9</sup> An act of solidarity may also be to refrain from doing something to support others or another group. In practising solidarity, a group is acting without being obliged to do so.<sup>10</sup> The idea of mutual support is partly also considered a central issue of solidarity<sup>11</sup> and some authors describe the welfare state as an expression of institutionalized solidarity.<sup>12</sup> Several authors emphasize that solidarity, in addition, has to be differentiated from charity,<sup>13</sup> where there are not necessarily common interests or values with the subject of charity. As Hyman holds, moreover, there must be differentiation between ‘solidarity with’ and ‘solidarity against’.<sup>14</sup> The previous elaborations refer to ‘solidarity with others’ – the context of a ‘solidarity against’ something or somebody will be elaborated below.

<sup>3</sup> Bude, 2019, p. 29.

<sup>4</sup> Liebknecht, 1871, p. 99.

<sup>5</sup> Online dictionary, [www.dictionary.com/browse/solidarity](http://www.dictionary.com/browse/solidarity) (13.4.2022).

<sup>6</sup> ‘Unbedingtes Zusammenhalten mit jemandem aufgrund gleicher Anschauungen und Ziele’, see [www.duden.de/rechtschreibung/Solidaritaet](http://www.duden.de/rechtschreibung/Solidaritaet) (16.1.2020).

<sup>7</sup> Hyman, 2002, p. 2; Lessenich, Reder and Süß, 2020, p. 319 (322).

<sup>8</sup> Durkheim, 1988, pp. 200ff.

<sup>9</sup> Klindworth and Schröder, 2010, p. 7.

<sup>10</sup> Bude, 2019, p. 11; Ludwig, 2019, p. 43.

<sup>11</sup> Bertram, 2007, p. 215; Bude, 2019, p. 32; Hyman, 2002, p. 2; Kock and Kutzner, 2020, p. 327; Lessenich, Reder and Süß, 2020, p. 319 (323); Ludwig, 2019, p. 43; Wersig et al., 2006, p. 314.

<sup>12</sup> Bude, 2019, p. 45.

<sup>13</sup> Bayertz, 1998, p. 49; Bude, 2019, p. 20; Hoffmann, 2004, p. 38; Lange and Thiersch, 2006, pp. 214f.; Zoll, 2000, p. 12; Lessenich, Reder and Süß, 2020, p. 319 (321).

<sup>14</sup> Hyman, 2002, p. 2.

### 3.2.3 *Internal Dimension of Solidarity*

Solidarity is also an expression of a social relation, which includes an element of responsibility.<sup>15</sup> As Durkheim holds with his ‘organic solidarity’, consensus results from a differentiation of the individual members of the group,<sup>16</sup> who are not similar to one another but are dependent on one another (cohesion through dependencies).<sup>17</sup> Such concepts might be described as an internal dimension of solidarity. Social relations of that kind are more visible in times of crisis, as was the case in the shutdown periods of the COVID-pandemic in 2020 and 2021.

### 3.2.4 *External Dimension of Solidarity*

Beyond the internal, there’s also an external dimension of solidarity, when solidarity is practised in political struggle, being solidary with people (or groups) who stand up and fight for their rights, as some authors emphasize<sup>18</sup> and as is shown impressively by Bertolt Brecht in his song ‘Solidarity’. Solidarity is thus seen as a process that is defined by interactions and collective action.<sup>19</sup> As Hyman holds, this might be described as ‘solidarity against’ the oppressor,<sup>20</sup> which is defined by some authors as transformative solidarity.<sup>21</sup>

Sangiovanni furthermore links solidarity with justice, when he defines ‘global or international justice’ as the basis of ‘social solidarity across borders’.<sup>22</sup> This reminds of the findings of Durkheim, who already considered justice a fundamental element of a production based upon the division of labour.<sup>23</sup> Whereas other authors like Nagel believe that social justice ultimately is only possible among those who are subject to a comprehensive system of societal norms backed by coercion,<sup>24</sup> Sangiovanni opposes this theory with the concept of internationalism,<sup>25</sup> upon which trade unions build their international practice.<sup>26</sup> He defines internationalism as the ‘mutual production of collective goods’, which is based upon an element of fairness

<sup>15</sup> Bude, 2019, p. 21; Lessenich, Reder and Süß, 2020, p. 319 (322).

<sup>16</sup> In Durkheim’s work, he relies upon society.

<sup>17</sup> Durkheim, 1988, pp. 428ff.; for a more recent take see Hondrich and Koch-Arzberger, 1992, p. 13.

<sup>18</sup> Bayertz, 1998, p. 49; similarly, see Sangiovanni, 2013, pp. 118ff. and Lessenich, Reder and Süß, 2020, p. 319 (322).

<sup>19</sup> Ludwig, 2019, p. 44; similarly: Lohmeyer et al., 2018, p. 400 (402); Lessenich, Reder and Süß, 2020, p. 318.

<sup>20</sup> Hyman, 2002, p. 2.

<sup>21</sup> Lessenich, Reder and Süß, 2020, p. 319 (323f.).

<sup>22</sup> Sangiovanni, 2013, pp. 118ff.

<sup>23</sup> Durkheim, 1988, pp. 421ff.

<sup>24</sup> Nagel, 2005, pp. 113ff.; similarly: Schäfer, 2006, p. 355.

<sup>25</sup> Sangiovanni, 2013, p. 119.

<sup>26</sup> Hoffmann, 2004, pp. 34ff.

in global production.<sup>27</sup> A striking description points out that solidarity is a specific form of social practice, which is born in daily discussion of the collective construction of the social.<sup>28</sup> Several authors see solidarity linked to the idea of justice.<sup>29</sup> To counter Nagel, this might be complemented by the idea that solidarity is practised without obligation, as elaborated above and as will be shown by the examples from trade union practice. As will be elaborated below, both the internal and external forms of solidarity are to be detected in the practice of trade unions.

### 3.2.5 *Inclusive and Exclusive Solidarity*

Two more differentiations of solidarity are elaborated in literature: inclusive and exclusive solidarity. Researchers describe it as inclusive solidarity, when the group concerned has on the one side a common concern, but the actual interest is not homogeneous, nor is the group in itself homogeneous.<sup>30</sup> It is an inclusive project insofar as different interests are included. Partly it is emphasized that inclusive solidarity is practised with others outside the own collective,<sup>31</sup> as is the case in international solidarity described by Giovanni. Exclusive solidarity, on the other hand, is practised for the benefit of a particular group,<sup>32</sup> potentially at the expense of others.<sup>33</sup> The group concerned is composed of rather homogeneous interests and emphasizes the identity of the interests of the solidarity actors,<sup>34</sup> at least insofar as the ‘solidarity between equals’ of Zoll (and Durkheim) is categorized as external solidarity.<sup>35</sup>

## 3.3 SOLIDARITY IN THE PRACTICE OF TRADE UNIONS

Solidarity has always been an important topic of social partners, nevertheless this applies to a greater extent to the workers’ side. As the weaker party, the support of others is an important element to strengthen trade unions.<sup>36</sup> Although there might be detected certain elements of solidarity also in employer organizations,<sup>37</sup> the companies that are members of the employers’ organization ultimately face each other as market competitors. This analysis therefore refers to the concept of solidarity

<sup>27</sup> Sangiovanni, 2013, p. 120.

<sup>28</sup> Lessenich, Reder and Stiß, 2020, p. 324.

<sup>29</sup> Bude, 2019, p. 140; Zoll, 2000, p. 105.

<sup>30</sup> Zeuner, 2004, pp. 325f.

<sup>31</sup> Bude, 2019, p. 144; Zeuner, 2004, p. 332.

<sup>32</sup> Bude, 2019, p. 144; Lessenich, Reder and Stiß, 2020, p. 319 (322).

<sup>33</sup> Lessenich, Reder and Stiß, 2020, p. 319 (322).

<sup>34</sup> Zeuner, 2004, pp. 325f.

<sup>35</sup> Zeuner, 2004, p. 332.

<sup>36</sup> Lohmeyer et al., 2018, p. 401 (403).

<sup>37</sup> Höpner, 2007, p. 329 f; Keller, 2008, pp. 368f., 377.

of trade unions in their general work and in collective bargaining and the legal basis for that.

### 3.3.1 *Legal Background*

Art. 28 CFR assumes that workers have the right to form their own organizations and guarantees the right to bargain collectively and to make use of the right to strike in defence of the workers' interests. In Germany, freedom of association and collective bargaining are enshrined in Art. 9.3 of the German Basic Constitutional Law. A central aim of these fundamental rights is the autonomy of the collective bargaining partners for the shaping of laws.<sup>38</sup> They define themselves, how they want to organize, to run their organization and which values are the basis of their work. Thus freedom is granted, in which the conflicting interests of workers and employers may be carried out by their own responsibility,<sup>39</sup> which sometimes is also called 'social self-government'.<sup>40</sup> The concept of solidarity therefore is defined first and foremost by the social partners themselves, or more precisely by the members of the social partners whom they are representing.<sup>41</sup> Nevertheless restrictions might exist, as the rules for collective bargaining and for collective action are defined by law, either by statutory law or by jurisdiction,<sup>42</sup> depending on the system of the respective member states. To be acknowledged as trade unions, sometimes linked with the ability to bargain collectively, trade unions have to be representative.<sup>43</sup>

### 3.3.2 *Solidarity in the Work of Trade Unions: Introduction*

Solidarity has always been a central value of trade unions,<sup>44</sup> as was already declared 1848 by Stephan Born, co-founder of the General German Workers' Fraternization (Allgemeine Deutsche Arbeiterverbrüderung): 'Free competition! Everyone for-himself!' is opposed here by the principle of 'solidarity', 'the fraternization'.<sup>45</sup> In the (German) Weimar Republic, solidarity was an important value for the working class, which could be characterized by communality and mutuality.<sup>46</sup> Today, trade

<sup>38</sup> Linsenmaier, 2020, Art. 9 GG, Rn 51.

<sup>39</sup> BVerfG (Constitutional Court) of 2.3.1993 – 1 BvR 1213/85, BVerfGE 88, 103 (114).

<sup>40</sup> Scholz, Art. 9 GG, Rn 160.

<sup>41</sup> On the representativeness of trade unions: Mundlack, 2020b.

<sup>42</sup> The right to strike is mostly guaranteed in the constitution of EU member states, with the exception of Austria, Belgium, Luxembourg, Malta, the Netherlands, Ireland and the UK. In Germany and Finland the right derives from the freedom of association: Warneck, 2007, p. 7; Waas, 2014, pp. 5ff.

<sup>43</sup> Mundlack, 2020a, pp. 86ff.; Mundlack, 2020b.

<sup>44</sup> Hoffmann, 2004, pp. 34ff.

<sup>45</sup> Born, in the journal 'Die Verbrüderung': 'Freie Konkurrenz! Jeder für sich!', wird hier gegenübergestellt dem Prinzip der 'Solidarität' der 'Verbrüderung! Jeder für alle.

<sup>46</sup> Bude, 2019, p. 32.

unions proclaim solidarity as a central value of their self-image,<sup>47</sup> based upon the subjective conviction that only together can something be achieved. This includes the practice of solidarity across borders,<sup>48</sup> as the example of the Accord in Bangladesh after the breakdown of the Rana Plaza factory with the death of more than 1,000 workers impressively showed.<sup>49</sup> Such values are characterized by individual and collective experiences, as well as by social discourses, which is more visible in times of crisis, like in the COVID-19 pandemic. The head of the German Federation of Trade Unions thus declared on the first of May 2020 in his online speech, 'We'll get through the corona crisis together only with solidarity, because you are not alone in solidarity' ('Nur mit Solidarität stehen wir die Corona-Krise gemeinsam durch, denn solidarisch ist man nicht alleine').<sup>50</sup> The crisis indeed strongly visualizes importance, values and the role of trade unions in society, as collectives create security in insecure times.<sup>51</sup>

### 3.3.3 *Inclusive and Exclusive Solidarity of Trade Unions*

Solidarity in trade unions is practised collectively<sup>52</sup> and trade unions may practise at the same time inclusive and exclusive solidarity. While establishing inclusive solidarity among their membership, they are to a certain extent naturally exclusive organizations,<sup>53</sup> representing primarily the interests of their members. The question of which sector a trade union is open to workers is defined by the statutes of the organization, which thus define implicitly the boundaries of solidarity.<sup>54</sup> Nevertheless a closer look at the different types of trade union is necessary. In Germany, industrial unions<sup>55</sup> organize all kinds of different workers in a sector and due to their heterogenous membership, face tremendous problems with the unification of the differentiating group-specific interests.<sup>56</sup> Their basic organizational efforts may be categorized as inclusive solidarity. Occupational trade unions,

<sup>47</sup> See explanations on webpages of (the most important) German trade unions: IG-Metall: [www.igmetall-nrw.de/mitglied-werden/solidaritaet-ist-kein-prinzip-von-gestern/?L=0](http://www.igmetall-nrw.de/mitglied-werden/solidaritaet-ist-kein-prinzip-von-gestern/?L=0); Ver.di: [www.verdi.de/ueber-uns/idee-tradition](http://www.verdi.de/ueber-uns/idee-tradition) and the DGB: [www.dgb.de/themen/+co++boc8af80c5ccc-11ea-ad59-001a4a160123](http://www.dgb.de/themen/+co++boc8af80c5ccc-11ea-ad59-001a4a160123) (all 13.4.2022).

<sup>48</sup> For further information, see Lohmeyer et al., 2018, pp. 400ff.; Zimmer, 2019, pp. 167ff., both with further references.

<sup>49</sup> Smith, 2014, p. 51 (56); Zimmer, 2016.

<sup>50</sup> Hoffmann: [www.vorwaerts.de/artikel/dgb-chef-hoffmann-nur-solidaritaet-stehen-corona-krise-gemeinsam](http://www.vorwaerts.de/artikel/dgb-chef-hoffmann-nur-solidaritaet-stehen-corona-krise-gemeinsam) (13.4.22).

<sup>51</sup> Lindemann, 2020, p. 374 (376); Steg, 2020, p. 60.

<sup>52</sup> Lindemann, 2020, p. 374.

<sup>53</sup> Ludwig, *The politics of Solidarity*, p. 43.

<sup>54</sup> Hyman, 2001, p. 170; Zeuner, 2004, p. 334.

<sup>55</sup> The German industrial unions organize all employees within their organizing territory regardless of status, occupational category or profession, qualification, political conception or religion; see Dribbusch and Birke, 2019, p. 7; Keller, 2008, p. 365.

<sup>56</sup> Keller, 2016, p. 6; similarly concerning the difficulties, Zeuner, 2004, p. 334.

in contrast, organize only homogenous, specialized groups of workers of the same kind.<sup>57</sup> As these trade unions exclusively organize specific professional or status groups,<sup>58</sup> they don't have to show consideration for the interests of other groups of workers and therefore practise solidarity exclusively for their clientele. Their daily work thus may be categorized as exclusive solidarity.<sup>59</sup>

Industrial trade unions, however, which are based upon the concept of inclusive solidarity, may practise exclusive solidarity under certain circumstances. In the economic crisis of 2008/2009 for example, German trade unions ensured that only few workers were dismissed. But this only applies to the regular workforce – the use of agency work was terminated<sup>60</sup> and fixed-term employment not prolonged. With this policy, trade unions thus interacted on behalf of their members, which are mostly composed of the regular workforce – and they acted on the back of the non-members. Another example of exclusive solidarity might occur in both types of trade unions, as well in industrial unions, as in occupational unions. As research has shown, racist tendencies may also be detected among the members of trade unions, of which a good many in Germany strongly support the right-wing racist party Alternative für Deutschland (AfD).<sup>61</sup> Even members of an inclusive industrial union thus may exclude minorities when they go for 'Germans first', as well as members of occupational unions.

Furthermore, developments in the working world have to be borne in mind, which makes it more difficult for trade unions to unite people on the basis of solidarity as a central value. In the last century, a soft form of solidarity was somehow the product of socialization in the factory. As Durkheim held, although not being homogenous, due to mutual interdependencies in the working process based upon the division of labour, the workforce acknowledged colleagues and there might be described a solidary community as a collective, although there was always also rivalry among proletarians.<sup>62</sup> Nevertheless, this consciousness was an ideal starting point for the work of trade unions. Currently the end of Fordism with the end of standardized mass production and the change towards more flexible and decentralized forms of production has been sufficiently described.<sup>63</sup> Industrial workers, in addition, are not the majority of the workforce anymore.<sup>64</sup> Most people work in offices, in laboratories or practices and are socialized in the office, not in the factory. Employees, though, tend to be more sceptical of the idea of a collective than workers and separation is

<sup>57</sup> E.g. in Germany, the Marburger Bund organizes only doctors, the Gewerkschaft der Flugsicherung only air traffic controllers, etc. For further information, see: Dribbusch and Birke, 2019, p. 7 or Keller, 2016, pp. 6f.

<sup>58</sup> Dribbusch and Birke, 2019, p. 9.

<sup>59</sup> Keller, 2008, pp. 368f.

<sup>60</sup> Dribbusch and Birke, 2019, p. 22.

<sup>61</sup> Dribbusch and Birke, 2019, p. 4.

<sup>62</sup> Bude, 2019, pp. 62f.

<sup>63</sup> See instead of many: Fichter and Zeuner 2002, p. 13 (15), with further references.

<sup>64</sup> Hyman, 2002, p. 3.

growing.<sup>65</sup> This is even more the case with workers in part-time work, freelancers, agency workers or crowd workers, which impedes the work of trade unions. As a consequence, specific trade unions and organizations for precarious workers were founded in some countries, like SEWA in India,<sup>66</sup> GMB-union for Uber-drivers in GB<sup>67</sup> or organizations for domestic workers.<sup>68</sup> But also industry-wide unions seem to have become more open for ‘non-traditional’ workers. In Germany the trade union Ver.di from the service sector has been open for freelancers since its foundation in 2001<sup>69</sup> and the IG-Metall opened up since a change in its statutes some years ago.<sup>70</sup> The IG-Metall, in addition, was the first union in Germany that made an effort to support crowd workers,<sup>71</sup> with other unions following.<sup>72</sup> As research indicates, trade unions have become more open towards precarious workers and in some countries form specific structures to represent precarious workers,<sup>73</sup> as the German example of IG-Metall and Ver.di shows. This may be described as a stronger approach of inclusive solidarity. Furthermore, alliances of trade unions with NGOs and public agencies can be detected.<sup>74</sup> Another factor for trade unions is the shift from sectorial collective bargaining towards company bargaining, which leads to a higher risk of ‘company-egoism’ with competition between enterprises, which might easily lead towards a rather exclusive solidarity, focused on the members of the own collective, the workforce of a specific company.<sup>75</sup> Therefore, a closer look at the specifics of solidarity in the current work of trade unions and at the legal background is necessary.

### 3.3.4 *Solidarity among the Members of the Trade Union*

#### 3.3.4.1 Solidarity concerning Membership Fees

Trade unions act on behalf of their members in order to protect workers’ interests and the activity of a trade union therefore is defined by the members.<sup>76</sup> There might be given several examples of how solidarity is practised among these members: as a general principle, members pay a certain percentage of their income as

<sup>65</sup> Bude, 2019, pp. 64ff.; Pulignano et al., 2016, p. 39 (40).

<sup>66</sup> For further information see [www.sewa.org](http://www.sewa.org) (10.3.2021).

<sup>67</sup> For further information see [www.gmb.org.uk](http://www.gmb.org.uk) (10.3.2022).

<sup>68</sup> For further information see [www.wiego.org/domestic-workers-organizing](http://www.wiego.org/domestic-workers-organizing) (10.3.2022).

<sup>69</sup> For further information see <https://selbststaendige.verdi.de/> (10.3.2022).

<sup>70</sup> For further information see [www.igmetall.de/service/leistungen/vorteile-einer-mitgliedschaft-fuer-solo-selbststaendige](http://www.igmetall.de/service/leistungen/vorteile-einer-mitgliedschaft-fuer-solo-selbststaendige) (10.3.2022).

<sup>71</sup> For further information see <http://faircrowd.work/de/> (10.3.2022).

<sup>72</sup> For further information see [www.ich-bin-mehr-wert.de/support/cloudworking/](http://www.ich-bin-mehr-wert.de/support/cloudworking/) (10.3.2022).

<sup>73</sup> Pulignano et al., 2016, p. 39 (41ff.); similarly: Durazzi, 2017, p. 265 (271ff.).

<sup>74</sup> Doellgast, Lillie and Pulignano, 2018, p. 1 (8).

<sup>75</sup> Kock and Kutzner, 2020, p. 327 (331).

<sup>76</sup> Zimmer, 2016, p. 18.



membership fee,<sup>77</sup> but specific groups with very little income do pay less. Students, people who receive the basic income by the state and those who provide voluntary service pay the minimum contribution, which is (in Germany) between €2,05 and €2,50. Other groups that for example receive pensions, unemployment or parental benefit, do pay only 0.5 per cent of their gross income to the union. The economically weakest parts of the membership are thus supported by a lower membership fee – based upon the idea that every single member potentially might get into an economic situation that requires an indirect form of support. Elements of this idea are to be found in all trade unions and can be categorized as inclusive solidarity. Such forms of solidarity within trade unions are based upon the idea of mutual support and have an ethical normative side, as an instrumental side, which distinguishes it from charity. Furthermore, there is no force to make use of such elements of solidarity; the members autonomously choose such a practice when defining the statutes of the organization.

### 3.3.4.2 Solidarity within the Process of Collective Bargaining

Another example might be given from collective bargaining negotiations of (representative) trade unions,<sup>78</sup> where sometimes the lowest wage groups receive a specific amount of pay rise, which is higher than the percentage rise for the members of all other groups,<sup>79</sup> as was the case for healthcare workers in autumn 2020 in Germany due to the COVID pandemic. Nursing staff in addition received a pay rise between 8.7 and 10 per cent, whereas the pay rise of other groups was only 3.2 per cent.<sup>80</sup>

The whole group of workers that are subject to the specific collective bargaining agreement (CBA) has on the one side a common interest, the wage increase, but the actual interest is not homogeneous. Qualified workers in general might receive a higher wage rise within an isolated struggle, but support within the process of collective bargaining in industrial unions the less assertive unqualified workers. The balance inside the trade union is always unstable and has to be negotiated before and within the negotiations with the employer side. Such an interrelation may be characterized as solidarity and can be described as inclusive solidarity.<sup>81</sup> A practice of solidarity that is not exclusive tries to expand the distributive discretion and will receive more support if a fair distribution is intended.<sup>82</sup> As already elaborated, the basis of collective bargaining is the autonomy of the bargaining partners. The demands in an industrial dispute therefore are autonomously defined by the

<sup>77</sup> In Germany this is 1 per cent of the regular gross income.

<sup>78</sup> The trade union has to be representative, see Mundlack, 2020a, pp. 86ff.; Mundlack, 2020b.

<sup>79</sup> Further examples are to be found in Wirth, 2021, pp. 1f.

<sup>80</sup> See trade union Ver.di: <https://gesundheit-soziales.verdi.de/tarifbereiche/oeffentlicher-dienst/+c0++9407eb6a-16b5-11eb-8249-001a4a16012a> (9.3.2022).

<sup>81</sup> Keller, 2008, pp. 368f.

<sup>82</sup> Kock and Kutzner, 2020, p. 327 (332).

social partners themselves, and they define the level of solidarity in the bargaining committees of the respective union, where the demands for the negotiations are specified, although in some countries legal limitations might exist.<sup>83</sup>

### 3.3.4.3 Solidarity through Strike Activities

Another similar example may be detected in the strike activity of industrial trade unions, where often some workers in specific positions are chosen to strike in the industrial conflict, on behalf of themselves, but also on behalf of other workers of the same union within the respective bargaining district, who belong to a different (and weaker) status group. The workers whose work stoppage hits the employer side most effectively are chosen for strike activity of the whole section, for example, garbage collectors or train/bus drivers. This counts at least for industrial unions, which organize all the workers of a company in a specific sector. This is another example of inclusive solidarity. If occupational trade unions, which organize only a specific occupational group, go on strike, they only strike for their own interest – and thus practise an exclusive form of solidarity. Based upon the strike provisions in the different EU member states, the form of solidarity that is practised in a strike could be analysed for the trade union organization (see above) or for the individual striking worker as well, if the strike rule guarantees the right to strike for trade union organizations. This is the case in Belgium, Italy, France and Spain, where the right to strike is granted also to individuals, whereas in Germany, Greece, Poland, the Czech Republic, Slovakia and Sweden only strikes are lawful that were called by trade union organizations.<sup>84</sup>

### 3.3.4.4 Solidarity Strikes

Solidarity strikes are the clearest practice of the inclusive solidarity of trade unions (and trade union members), as the workers are not striking in their own interests or for their own collective bargaining agreement (CBA), but supporting others in their primary industrial action.<sup>85</sup> Solidarity strikes are practised in solidarity with the interests of others, often by workers of the same sector, but also from another section of the same or from another company or of the same trade union, or of another sector or even practised by members of other trade unions, partly even in another country. The further away the solidarity strikers are from the initial strikers, the less homogenous the group of striking workers is, which was elaborated as a sign of inclusive solidarity. Nevertheless, if solidarity strikes are not admissible in certain

<sup>83</sup> In Germany restrictions for CB are discussed (controversely) concerning economic decisions and corporate policy. For further information, see Däubler, 2016, pp. 27ff.; Däubler, 2012.

<sup>84</sup> Wameck, 2007, p. 8.

<sup>85</sup> Linsenmaier, 2022, Art. 9 GG, para. 120, 278; Zimmer, 2018, p. 508 (510).

countries (as elaborated below), this form of solidarity is not an option for the respective trade unions.

**3.3.4.4.1 PRACTICAL EXAMPLE** A classical example of inclusive solidarity comes from the International Transportworkers Federation (ITF), which has used industrial action in the form of boycott activity<sup>86</sup> by ITF-affiliated unions to support pay disputes for many years. There is a variety of possible scenarios. The most common scenario within which ITF affiliates resort to boycott action is the one where the ITF requests the owner of a ship sailing under a flag of convenience<sup>87</sup> to conclude an ITF-CBA. If the shipowner (or the operating company) fails to comply with this request, the competent ITF union will call for a boycott as soon as the ship makes for a port of which the dockworkers are organized in an ITF-affiliated union. The ITF's common practice in such situations is to call on the dockworkers to boycott loading and unloading operations for such a ship, in order to compel the shipowner to conclude an ITF-CBA. Another option would be to have the ITF-affiliated union of another country that is involved in a collective bargaining dispute and call on its foreign sister unions to initiate a boycott in support of its industrial action. Nevertheless, such action is not lawful in all member states and thus may be practised only in some countries.

**3.3.4.4.2 LEGAL QUESTIONS** Most constitutions of EU member states guarantee the right to strike or it is granted by either ordinary statutory law or by jurisdiction (s. a.). Solidarity strikes, however, are not always considered lawful. Only in some EU member states are solidarity strikes lawful if they support a lawful strike (Austria,<sup>88</sup> Bulgaria,<sup>89</sup> Cyprus,<sup>90</sup> Denmark,<sup>91</sup> Iceland,<sup>92</sup> Italy,<sup>93</sup> Malta,<sup>94</sup> Portugal,<sup>95</sup> Sweden<sup>96</sup>) or lawful even if the primary strike is unlawful (Belgium).<sup>97</sup>

In other legal orders solidarity strikes are only legally admissible if there's some sort of link to the main labour conflict, so that the employer may influence the

<sup>86</sup> Such boycott activity of dockers may be characterized as solidarity action (strike); see Zimmer, 2018, p. 508 (510f.).

<sup>87</sup> Concerning the FOC-campaign of the ITF, see [www.itfseafarers.org/en/focs/about-the-fo-campaign](http://www.itfseafarers.org/en/focs/about-the-fo-campaign) (29.03.2022).

<sup>88</sup> In Austria, solidarity strikes are not explicitly regulated, and therefore considered lawful: Burger, 2014, p. 121 (126).

<sup>89</sup> Warneck, 2007, p. 18.

<sup>90</sup> *Ibid.*, p. 21.

<sup>91</sup> *Ibid.*, p. 25.

<sup>92</sup> Warneck, 2007, p. 38.

<sup>93</sup> Pascucci, 2014, p. 331 (341).

<sup>94</sup> Warneck, 2007, p. 50.

<sup>95</sup> Warneck, 2007, p. 58.

<sup>96</sup> Malmberg and Johansson, 2014, p. 525 (526).

<sup>97</sup> Warneck, 2007, p. 17.

negotiations and thus the ending of the strike activity (Czech Republic,<sup>98</sup> France,<sup>99</sup> Greece,<sup>100</sup> Spain<sup>101</sup> and Slovakia<sup>102</sup>). Sometimes solidarity strikes are lawful in principle, although subject to specific rules (for example in Croatia,<sup>103</sup> Estonia,<sup>104</sup> Hungary,<sup>105</sup> Finland,<sup>106</sup> Ireland<sup>107</sup> and Romania<sup>108</sup>) or considered lawful only under specific (restricted) conditions, as is the case in Poland.<sup>109</sup> In other countries, like Slovenia, it is still disputed whether solidarity strikes are admissible.<sup>110</sup> Solidarity strikes are classified as illegal in Latvia, if the dispute does not concern a general agreement (sectoral-level CBA),<sup>111</sup> whereas in Lithuania,<sup>112</sup> Luxembourg<sup>113</sup> and the Netherlands,<sup>114</sup> solidarity strikes are considered unlawful.

Although the right to strike falls under national law and as is well known, Art. 153 (5) TFEU bans the EU of legal acts in this area, EU law still has an impact on national law. The CJEU has taken decisions in the ‘famous’ strike cases of Viking and Laval, where the right to strike was acknowledged as a fundamental right and balanced with the fundamental freedoms (with economic rights prevailing, as is well known).<sup>115</sup> Also Art. 28 EU-CFR guarantees the right ‘to take collective action’, and due to Art. 52(2) CFR, the rights of the Charter (which correspond to rights of the ECHR) have to be interpreted in line with those of the Convention. According to the explanatory notes on Art. 52 of the Charter, ‘the level of protection afforded by the Charter may never be lower than that guaranteed by the ECHR’. The meaning and scope of the CFR therefore are also defined by the jurisprudence of the European Court of Human Rights (ECtHR),<sup>116</sup> which was confirmed by CJEU

<sup>98</sup> Section 16 (3) and 20 (e) Collective Bargaining Act; Hurka, *The right to strike: Czech Republic*, p. 169 (173); Waas, *The right to strike*, p. 50; Wameck p. 22.

<sup>99</sup> Kessler, 2014, p. 207 (224f.).

<sup>100</sup> Art. 19(1) of Law No. 1264/1982; Bakirtzi, 2014, p. 259 (276).

<sup>101</sup> Solidarity strikes are admissible, if the professional interests of the strikers are somehow effected: Guastavino, 2014, p. 509 (517).

<sup>102</sup> Wameck, 2007, p. 64.

<sup>103</sup> Wameck, 2007, p. 20.

<sup>104</sup> Art. 18(2), Collective Labour Dispute Resolution Act; Wameck, 2007, p. 26.

<sup>105</sup> Solidarity strikes are the only strikes that have to be organized by a trade union: Kajtár and Kun, 2014, p. 285 (294); Waas, 2014, p. 51.

<sup>106</sup> Lamminen, 2014, p. 193 (195).

<sup>107</sup> Kerr, 2014, p. 303 (310); Wameck, 2007, p. 40.

<sup>108</sup> Wameck, 2007, p. 60.

<sup>109</sup> Grzebyk, 2014, p. 427 (440f.).

<sup>110</sup> Končar, 2014, p. 467 (472f.); Waas, 2014, p. 51.

<sup>111</sup> Such sectoral agreements are rare; ETUI: [www.etui.org/covid-social-impact/latvia/strikes-in-latvia-background-summary](http://www.etui.org/covid-social-impact/latvia/strikes-in-latvia-background-summary) (30.03.2022).

<sup>112</sup> Petrylaitė, 2014, p. 369 (379); Wameck, 2007, p. 46.

<sup>113</sup> Wameck, 2007, p. 48.

<sup>114</sup> Houwerzijl and Roozendaal, 2014, p. 413 (422); Wameck, 2007, p. 50.

<sup>115</sup> CJEU, C-438/05 Viking (2007), ECR I-10779-10840; CJEU, C-341/05 Laval (2007), ECR I-11767-118904. The court was heavily criticized for the proportionality test of the decision.

<sup>116</sup> Zimmer, 2015, p. 194 (198).

decisions.<sup>117</sup> Art. 11(1) of the ECHR does not explicitly mention the right to strike, nevertheless the famous decision *Demir & Baykara*<sup>118</sup> marked a change in the interpretation of freedom of association of the Court and one year later the ECtHR also saw also the right to strike encompassed by Art. 11 (1) ECHR.<sup>119</sup> Limitations to this right are only admissible if there's a legal basis and interference is only justified if 'necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others' (Art. 11(2) ECHR). Although this test corresponds at first sight to the proportionality test used by the CJEU, the ECtHR makes use of a different standard of judicial review and interprets the right to strike much wider than the CJEU.<sup>120</sup> The ECtHR has reconfirmed with further decisions that the right to strike falls within Art. 11 of the ECHR<sup>121</sup> and in the *RMT* decision the court has generally acknowledged the right to take solidarity action as part of Art. 11 ECHR, as well.<sup>122</sup> In this case nevertheless, the ECtHR distinguished between direct strikes and so-called 'secondary' strike action, where it has acknowledged a wide margin of appreciation for the state and accepted the argument of the British government that excessive economic damage would result from legal secondary strike action. This formal distinction between direct strike activity of the trade union involved and indirect solidarity activities showed the limitations of the findings of the court, especially concerning solidarity strikes.<sup>123</sup>

As the right to strike is also guaranteed explicitly in Art. 6(4) of the European Social Charter (ESC), both in the 1961 version and in the revised ESC (of 1996), the findings of the European Committee of Social Rights<sup>124</sup> might also influence the interpretation of the right to strike in the member states, although it is disputed to what extent the findings of the committee have to be considered by national courts.<sup>125</sup> The right to strike under the ESC encompasses the right to strike in solidarity, as well.<sup>126</sup> Moreover, the Committee acknowledges the right to strike as fundamental and important and emphasizes, that 'the facilitation of free cross-border movement of services . . . cannot be treated, from the point of view of the system of values, principles and fundamental rights embodied in the Charter, as having a greater a priori value than core labour rights, including the right to make use of

<sup>117</sup> See explanations of C-279/09 (*DEB Deutsche Energie- und Beratungsgesellschaft*, n 50), para. 35 and C-400/10 (*PPU McB*, n 36), para. 53.

<sup>118</sup> ECtHR 12.11.2008, no. 34503/97 (*Demir and Baykara*).

<sup>119</sup> ECtHR 21.04.2009, no. 68959/01 (*Enerji Yapi Yol Sen*).

<sup>120</sup> For further information, see Vogt et al., 2020, pp. 87ff.; Zimmer, 2015, p. 194 (199ff.).

<sup>121</sup> ECtHR 27.11.2014, no. 36701/09 (*Hrvatski liječnički sindikat/Croatia*), para. 49.

<sup>122</sup> ECtHR 8.4.2014, no. 31045/10 (*RMT/UK*), para. 77.

<sup>123</sup> Lörcher, 2014; Vogt et al., 2020, p. 194 (203f.).

<sup>124</sup> ECSR, Digest of the Case Law of the European Committee of Social Rights, 2018, Art. 6(4), pp. 101ff.

<sup>125</sup> Schlachter, 2019, para. 507ff.; Schubert, *Arbeitsvölkerrecht*, 2017, p. 98.

<sup>126</sup> Conclusions XX-3 (2014), United Kingdom.

collective action'.<sup>127</sup> Nevertheless, member states (of the Council of Europe) are not necessarily bound by Art. 6(4) ESC, as the Charter allows to choose six of nine articles of Part II (Art. 1, 5, 6, 7, 12, 13, 16, 19 and 20, see part III, Art. A, 2 (b) ESC). Moreover, the possibilities in the supervisory system of the ESC in case of violations are limited<sup>128</sup> and might be described as naming and shaming. But still the influence of the ESC should not be underestimated, as the German example shows. The change in German jurisdiction in 2007, with which solidarity strikes were (under certain conditions) acknowledged, was based upon Art. 6(4) ESC.<sup>129</sup>

### 3.3.5 *Elements of Direct Democracy in the Work of Trade Unions*

Direct democracy means that relevant decisions are taken by the people effected.<sup>130</sup> Although the basic structure of trade unions is based upon the idea of representative democracy,<sup>131</sup> several elements of direct democracy may be found as well in the practice of the organizations. Demands for collective bargaining rounds, for example, are elaborated and discussed in bargaining commissions, composed of delegates of the members. Even though guidelines for the claims of the organization are given by the board of the union, these are in most trade unions only general guidelines, supplemented by info-material of the collective bargaining departments. Central questions are defined by the members, or rather by their delegates, who also have to be consulted before the collective agreement is signed. Elements of direct democracy are thus mixed with those of representative democracy.

Although in most trade unions a strike has to be finally approved by the board, strike-balloting of the members is necessary before a strike can start, and as a rule 75 per cent of the members or more have to vote in favour. Moreover, the statutes of most trade unions provide for a second ballot, which has to be executed to receive an approval for the result of the negotiations by the members, and mostly about 75 per cent (or more) are as well necessary to reject the result.

## 3.4 (EUROPEAN) WORKS COUNCILS

### 3.4.1 *Solidarity in the Practice of (European) Works Councils*

Another actor that might practise solidarity in the working world is the European Works Council (EWC), and in a few countries works councils operate at the

<sup>127</sup> ECSR, Digest of the Case Law of the European Committee of Social Rights, 2018, Art. 6(4), p. 104.

<sup>128</sup> Schlachter, 2019, §6 Europarat, para. 507.

<sup>129</sup> BAG 19.6.2007 – 1 ABR 396/06, NZA 2007, 1055; Beer, 2019, §13, para. 47.

<sup>130</sup> See: BP, Das Politiklexikon: Direkte Demokratie, online: [www.bpb.de/nachschlagen/lexika/politiklexikon/17361/direkte-demokratie](http://www.bpb.de/nachschlagen/lexika/politiklexikon/17361/direkte-demokratie) (28.3.2022).

<sup>131</sup> In a representative democracy, the important decisions are taken by the parliament, which is elected by the people, see: BP, Das Politiklexikon: Repräsentative Demokratie, online: [www.bpb.de/nachschlagen/lexika/politiklexikon/18137/repraesentative-demokratie](http://www.bpb.de/nachschlagen/lexika/politiklexikon/18137/repraesentative-demokratie) (28.13.2022).

national level, as well. EWCs are Europe-wide bodies of workers' representation in a company or group of companies with delegates of workers representatives of each member state, sometimes even with further delegates from outside Europe.<sup>132</sup> As EWCs are set up for the purpose of information and consultation, their defined function is to receive information regarding central management (with further consultation). Some EWCs nevertheless have developed further and created transnational structures for cooperation. It could be described as an act of inclusive solidarity when EWC delegates from the home country share their usually good resources, as well as their frequently preferential access to information, with representatives from other countries<sup>133</sup> or create network structures across Europe. Some EWCs have even developed into bodies that actively negotiate agreements about topics like non-discrimination, training, data protection or even restructuring (beyond the founding agreements)<sup>134</sup> and actively practise solidarity across Europe.<sup>135</sup> Haipeter and Banyuls examined the work of EWCs in the European subsidiaries of General Motors and concluded that solidarity practised throughout Europe would be comprised of refraining from activities, which would be useful for one plant, but could harm others. Representatives of other plants in turn behave in the same way and solidarity is created in some sort of negotiation process. Actors with whom central management wants to compete throughout Europe, by refraining to do so, finally promote their interests.<sup>136</sup>

In Germany and Austria the main body of workers' representation at the workplace level is the works council (WC). WCs are elected by the employees and formally independent of trade unions.<sup>137</sup> As WCs represent the whole workforce, which often will be composed of different kinds of workers, structurally elements of inclusive solidarity are part of their work. On the other hand, as research has shown, WCs rather represent the typical permanent (male) workforce,<sup>138</sup> with minorities or atypical, precarious workers rarely elected into the body. And what is more, the legal order does not provide WCs with the possibility to solve the main problems of fixed-term contracts or agency workers.<sup>139</sup> Elements of exclusive solidarity thus are structurally also part of the work of WCs, which might differ, based upon the concrete work of the workers' representatives.

<sup>132</sup> EWCs may be founded, if the company/group has at least 1,000 workers in one EU member state and a minimum of 150 workers in two members states.

<sup>133</sup> Platzer and Rüb, 1999, p. 393 (403); Zimmer, 2013, p. 312 (316).

<sup>134</sup> For further information see: Zimmer, 2013, p. 312 (317ff.).

<sup>135</sup> Zimmer, 2003, pp. 620ff.

<sup>136</sup> Haipeter and Banyuls, 2007, pp. 393f.

<sup>137</sup> Dribbusch and Birke, 2019, p. 6.

<sup>138</sup> Däubler, 2019, pp. 1601ff.

<sup>139</sup> Däubler, 2019, p. 1601 (1602ff.).

### 3.4.2 *Elements of Direct Democracy in the Work of (European) Works Councils*

In Germany, WCs are elected by the workforce every four years (§13.1 BetrVG) and represent the workforce of the company, which may rather be described as a form of representative democracy. Inquiries of the workforce are only voluntary and rarely practised, although ‘good’ works councils try to get to know the will of the workers and to integrate them into their work. In case of severe misconduct, one quarter of the workers are entitled to vote and may apply at the labour court for the dismissal of the WC, or of individual members (§23.1 BetrVG),<sup>140</sup> which could be seen as an element of action besides and before the next election. But this is rarely practised and hardly ever by the workforce, but rather by the employer or by the respective trade union. There are thus far fewer elements of direct democracy in the operating principle of German works councils. This counts even more for EWCs, as in most EU member states they are nominated by the workers’ representatives and only in cases where there are no such representatives, the workforce is involved directly.<sup>141</sup>

## 3.5 CONCLUSION

As has been elaborated, inclusive as well as exclusive solidarity may be detected in the work of trade unions, EWCs and WCs and is partly characterized by their work. Therefore, the architecture of collective labour law, both in Europe as in Germany, contains solidarity as a central element of its structure. It has to be questioned whether this is reflected enough in current EU law interpretation.

## REFERENCES

- Bakirtzi, Effosyni, The right to strike: Greece, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 259–283.
- Bayertz, Kurt, *Solidarität: Begriff und Problem*. Suhrkamp Verlag, 1998.
- Beer, Susanne, §13 Rezeption des Völkerrechts im Rahmen des nationalen Rechts, in: Schlachter, Heuschmid and Ulber, Daniel (eds), *Arbeitsvölkerrecht*. Mohr Siebeck, 2019.
- Bertram, Hans, Differenzierung, Pluralisierung, Individualisierung und Netzwerke – Soziale Beziehungen, Solidarität und neue Zeitlichkeit, in: Mückenberger, Ulrich and Timpf, Siegfried (eds), *Zukünfte der europäischen Stadt. Ergebnisse einer Enquete zur Entwicklung und Gestaltung urbaner Zeiten*. VS Verlag für Sozialwissenschaften, 2007, pp. 215–231.
- Bude, Heinz, *Solidarität. Zukunft einer großen Idee*. Hanser Verlag, 2019.

<sup>140</sup> This dismissal would be a dismissal of the function; the individual works contract of the person remains in force.

<sup>141</sup> Art. 5.2a directive 2009/38/EG leaves it to the member states to choose whether the delegates to the EWC are nominated or voted for by the workforce.



- Bundeszentrale für politische Bildung (BP), Das Politiklexikon: Direkte Demokratie: [www.bpb.de/nachschlagen/lexika/politiklexikon/17361/direkte-demokratie](http://www.bpb.de/nachschlagen/lexika/politiklexikon/17361/direkte-demokratie) (28.3.2022).
- Das Politiklexikon: Repräsentative Demokratie: [www.bpb.de/nachschlagen/lexika/politiklexikon/18137/repraesentative-demokratie](http://www.bpb.de/nachschlagen/lexika/politiklexikon/18137/repraesentative-demokratie) (28.3.2022).
- Burger, Florian, The right to strike: Austria, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 121–127.
- Comte, Auguste, *Katechismus der positiven Religion*. Nach der 2. Ausgabe des Originals, 1891.
- Däubler, Wolfgang, *Die Unternehmerfreiheit im Arbeitsrecht – eine unantastbare Größe?* Bund-Verlag, 2012.
- Tarifverträge zur Unternehmenspolitik. *Rechtliche Zulässigkeit und faktische Bedeutung*. Bund-Verlag, 2016.
- Der Betriebsrat – Sprecher auch der Randbelegschaften? *Neue Zeitschrift für Arbeitsrecht* (2019), pp. 1601–1606.
- Doellgast, Virginia, Lillie, Nathan and Pulignano, Valeria, From dualization to solidarity: Halting the cycle of precarity, in: Doellgast, Virginia, Lillie, Nathan and Pulignano, Valeria (eds), *Reconstructing solidarity: Labour unions, precarious work, and the politics of institutional change in Europe*. Oxford University Press, 2018, pp. 1–41.
- Dribbusch, Heiner and Birke, Peter, *Trade unions in Germany: Challenges in a time of transition*. Friedrich–Ebert–Stiftung, 2019.
- Durazzi, Niccolo, Inclusive unions in a dualized labour market? The challenge of organizing labour market policy and social protection for labour market outsiders, *Social Policy & Administration*, 51 2 (2017), pp. 265–285.
- Durkheim, Émile, *Über die Teilung der sozialen Arbeit. Studien über die Organisation höherer Gesellschaften*. Suhrkamp Verlag, 1988.
- European Committee of Social Rights, Digest of the case law of the European Committee of Social Rights, 2019: <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80> (2.4.2022).
- Fichter, Michael and Zeuner, Bodo, Zukunft der Gewerkschaften. Erkenntnisse aus einer Literaturstudie, *Forschungsjournal Neue Soziale Bewegungen* 15 (2002), pp. 13–28.
- Grzebyk, Piotr, The right to strike: Poland, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 427–449.
- Guastavino, Nogueira, Magdalena, The right to strike: Spain, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 509–524.
- Haipeter, Thomas and Banyuls, Josep, Arbeit in der Defensive? Globalisierung und die Beziehungen zwischen Arbeit und Kapital in der Automobilindustrie, *Leviathan* 3 (2007), pp. 373–400.
- Hoffmann, Jürgen, Jenseits des Mythos – Internationale Solidarität als Herausforderung der Gewerkschaftspolitik im Zeitalter der Globalisierung und Europäisierung, in: Beerhorst, Joachim, Demirovich, Alex and Guggemoos, Michael (eds), *Kritische Theorie im gesellschaftlichen Strukturwandel*. Suhrkamp Verlag, 2004, pp. 34–64.
- Hondrich, Karl Otto and Koch-Arzberger, Claudia, *Solidarität in der modernen Gesellschaft*. Fischer Verlag, 1992.
- Höpner, Martin, Ist Politik gegen Verbände möglich? 25 Jahre Mancur Olsons ‘The Rise and Decline of Nations’, *Leviathan* 35 (3), 2007, pp. 310–347.
- Houwerzijl, Mijke and Roozendaal, Willemijn, The right to strike: The Netherlands, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 413–426.
- Hyman, Richard, Understanding European trade unionism. *Between market, class & society*. SAGE Publications, 2001.
- Where does solidarity end? Eurozine 2002: [www.eurozine.com/where-does-solidarity-end/?pdf](http://www.eurozine.com/where-does-solidarity-end/?pdf) (20.03.2022).

- Kajtár, Edit and Kun, Attila, The right to strike: Hungary, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 285–301.
- Keller, Berndt, Berufsverbände, Tarifautonomie und das System der Interessenvertretung, *Leviathan* 3 (2008), S. 364–390.
- Cooperation or conflict? Occupational trade unions in the German industrial relations system, *WISO-Diskurs* 22/2016, online: <https://library.fes.de/pdf-files/wiso/12904.pdf> (22.3.2022).
- Kessler, Francis, The right to strike: France, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 207–234.
- Kerr, Anthony, The right to strike: Ireland, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 303–315.
- Klindworth, Harald and Schröder, Wiebke, *Der Begriff der Solidarität in der wissenschaftlichen Literatur von 1990 bis 2009 – Bedeutung, Wandel und Schlussfolgerungen hinsichtlich der sozialen Sicherungssysteme in der BRD*. Studie im Auftrag der Rosa-Luxemburg-Stiftung, 2010.
- Kock, Klaus and Kutzner, Edelgard, Solidarität im Arbeitsalltag, *WSI-Mitteilungen* 73 5 (2020), pp. 327–334.
- Končar, Polonca, The right to strike: Slovenia, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 467–476.
- Kurz-Scherf, Ingrid and Zeuner, Bodo, Politische Perspektiven der Gewerkschaften zwischen Opposition und Kooperation, *Gewerkschaftliche Monatshefte*, 52 3 (2001), pp. 147–160.
- Lamminen, Johannes, The right to strike: Finland, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 193–206.
- Lange, Dietrich and Thiersch, Hans, Die Solidarität des sozialen Staates – Die Solidarität des reformierten Sozialstaates, in: Böllert, Karin et al. (eds), *Die Produktivität des Sozialen – den sozialen Staat aktivieren*, Springer, 2006, pp. 211–225.
- Lessenich, Stephan, Reder, Michael and Süß, Dietmar, Solidarität – national, europäisch, global? *WSI-Mitteilungen*, 73 5 (2020a), p. 318.
- Zwischen sozialem Zusammenhalt und politischer Praxis: Die vielen Gesichter der Solidarität, *WSI-Mitteilungen*, 73 5 (2020b), pp. 319–326.
- Liebknecht, Karl, Zu Trutz und Schutz (1871), in: Liebknecht, Karl (ed.), *Kleine politische Schriften*. Reclam Leipzig, 1976.
- Lindemann, Kai, Solidarität ist das humanistische Fundament der Arbeitswelt, *WSI-Mitteilungen*, 73 5 (2020), pp. 374–377.
- Linsenmaier, Wolfgang, Kommentierung GG Art. 9 (Vereinigungsfreiheit), in: Müller-Glöge, Rudi, Preis, Ulrich, Schmidt, Ingrid, *Erfurter Kommentar zum Arbeitsrecht*, 22. Auflage, 2022.
- Lörcher, Klaus, Anmerkung zum EGMR (Urteil vom 8. April 2014 – RMT/Vereinigtes Königreich), Newsletter zum Europäischen Arbeitsrecht 2/2014, online: [www.hugo-sinzheimer-institut.de/hsi-newsletter/europaeisches-arbeitsrecht/2014/newsletter-022014.html#c5724](http://www.hugo-sinzheimer-institut.de/hsi-newsletter/europaeisches-arbeitsrecht/2014/newsletter-022014.html#c5724) (22.3.2022).
- Lohmeyer, Nora, Schübler, Elke and Helfen, Markus, Can solidarity be organized ‘from below’ in global supply chains? The case of ExChains, *Industrielle Beziehungen*, 4 (2018), pp. 400–424.
- Ludwig, Carmen, *The politics of solidarity: Privatisation, precarious work and labour in South Africa*. Campus Verlag, 2019.
- Malmberg, Jonas and Johansson, Caronline, The right to strike: Sweden, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 525–536.

- Mundlack, Guy, *Organizing matters: Two logics of trade union representation*. ILERA-publication series, Edgar Elgar, 2020a, online: [www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/-publ/documents/publication/wcms\\_741934.pdf](http://www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/-publ/documents/publication/wcms_741934.pdf) (1.4.2022).
- On Labour representativeness: The Hidden components of the right to freely associate in trade unions, unpublished paper (2020b).
- Nagel, Thomas, The problem of global justice, *Philosophie & Public Affairs*, 33 2 (2005), pp. 113–147.
- Platzer, Wolfgang and Rüb, Stefan, Europäische Betriebsräte: Genese, Formen und Dynamiken ihrer Entwicklung – Eine Typologie, *Industrielle Beziehungen*, 6 4 (1999), pp. 393–426.
- Pascucci, Paolo, The right to strike: Italy, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 331–350.
- Petrylaitė, Daiva, The right to strike: Lithuania, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 369–385.
- Pulignano, Valeria, Ortíz Gervasi, Luis and de Franceschi, Fabio, Union responses to precarious workers: Italy and Spain compared, *European Journal of Industrial Relations*, 22 1 (2016), pp. 39–55.
- Schäfer, Armin, Nach dem permissiven Konsens. Das Demokratiedefizit der Europäischen Union, *Leviathan*, 3 (2006), pp. 305–376.
- Sangiovanni, Andrea, Solidarity in the European Union, *Oxford Journal of Legal Studies*, 33 2 (2013), pp. 213–241.
- Schlachter, Monika, Heuschmid, Johannes and Ulber, Daniel (eds), *Arbeitsvölkerrecht*. Mohr Siebeck, 2019.
- Schlachter, Monika, §6 Europarat, in Schlachter, Heuschmid and Ulber, Daniel (eds), *Arbeitsvölkerrecht*, Mohr Siebeck Publisher, 2019.
- Scholz, Rupert, GG Art. 9 (commentary), in: Herzog, Roman, Scholz, Rupert, Herdegen, Mathias and Klein, Hans H. (eds), *Maunz/Dürig, Grundgesetz-Kommentar*, 90th edition. Beck Verlag, 2020.
- Schubert, Jens, *Arbeitsvölkerrecht*. Erich Schmidt, 2017.
- Sciara, Silvana, *Solidarity and conflict: European social law in crisis*. Cambridge University Press, 2018.
- Smith, John, The globalisation of production and the challenges facing international solidarity (with special reference to Bangladesh), in: Pradella, Lucia and Marois, Thomas (eds), *Polarising development – Alternatives to neoliberalism and the crisis*. Pluto, 2014, pp. 51–61.
- Steg, Joris, Die Coronakrise als Zäsur und Chance, *Blätter für deutsche und internationale Politik*, 6 (2020), S. 71–79.
- Kollektive schaffen Sicherheit in unsicheren Zeiten, *Mitbestimmung*, 3 (2020), pp. 60–61.
- Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014.
- Waas, Bernd, The right to strike: A comparative view, in: Waas, Bernd (ed.), *The right to strike: A comparative view*. Wolters Kluwer, 2014, pp. 3–76.
- Warneck, Wiebecke, *Strike rules in the EU27 and beyond: A comparative overview*. ETUI-REHS, 2007.
- Wersig, Maria, Künzel, Annegret and Berghahn, Sabine, Ehezentrierung statt staatsbürgerlicher Solidarität der Geschlechter – wohin führen die Reformen im deutschen System der Existenzsicherung?, in: Degener, Ursula and Rosenzweig, Beate, *Die Neuverhandlung sozialer Gerechtigkeit*. Feministische Analysen und Perspektiven, 2006, pp. 301–319.

- Vogt, Jeffrey, Bellace, Janice, Compa, Lanc, Ewing, K. D., Lord Hendy, Q. C., Lörcher, Klaus and Novitz, Tonia, *The right to strike in international law*. Hart Publishing, 2020.
- Wirth, Carsten, *Konkurrenzen und Solidaritäten. Festschrift für Anton Kobel zum 75.* Nomos Publishing, 2021.
- Zeuner, Bodo, Widerspruch, Widerstand, Solidarität und Entgrenzung – neue und alte Probleme der deutschen Gewerkschaften, in: Beerhorst, Joachim, Demirovich, Alex and Guggemoos, Michael (eds), *Kritische Theorie im gesellschaftlichen Strukturwandel*. Suhrkamp Verlag, 2004, pp. 318–353.
- Zimmer, Reingard, The right to take collective action: Prospects for change in European Court of Justice case law in light of European Court of Human Rights decisions, in: Blacket, Adelle and Trebilcock, Anne (eds), *Research handbook on transnational labour law*, Edgar Elgar, 2015, pp. 194–203.
- Corporate responsibility in the ‘Bangladesh Accord’. Which regulations are transferable to other supply chains? Expertise on behalf of the Friedrich–Ebert–Foundation, Dezember 2016, online: <http://library.fes.de/pdf-files/id-moe/13072.pdf> (13.4.2022).
- Legitimization: Mandate and signatory parties – the trade union side, in: ETUC (ed.), *Building an enabling environment for voluntary and autonomous negotiations at transnational level between trade unions and multinational companies*. Final Report, Brussels, 2016, pp. 18–22.
- Boykottbedingte Streikaktivitäten von HafenarbeiterInnen als zulässige Arbeitskämpfmaßnahme?, *Arbeit und Recht*, 11 (2018), pp. 508–513.
- From international framework agreements towards transnational collective bargaining?, in: *European yearbook of international economic law (EYIEL)* 2019. Springer, 2020, pp. 167–192.
- European Works Councils as participants in Euro-wide collective agreements: Analysis from a German perspective, *European Labour Law Journal*, 4 4 (2013), pp. 312–327.
- Europäische Solidarität. Beispiele positive Arbeit Europäischer Betriebsräte, *Arbeitsrecht im Betrieb*, 10 (2003), pp. 620–625.
- Zoll, Rainer, *Was ist Solidarität heute?* Suhrkamp Verlag, 2000.