

Strike

in and along the Value Chain

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Agenda

- I. Terminology
- II. Value Chain
- III. Practicle examples of strikes in and along the value chain
- IV. Settled practice of ILO committees on solidarity strikes
- V. Effects on German juristicition

I. Terminology

- Solidarity strike or sympathy strike?
 - Solidarity has always been a central aim of the trade union movement
- Solidarity Strike

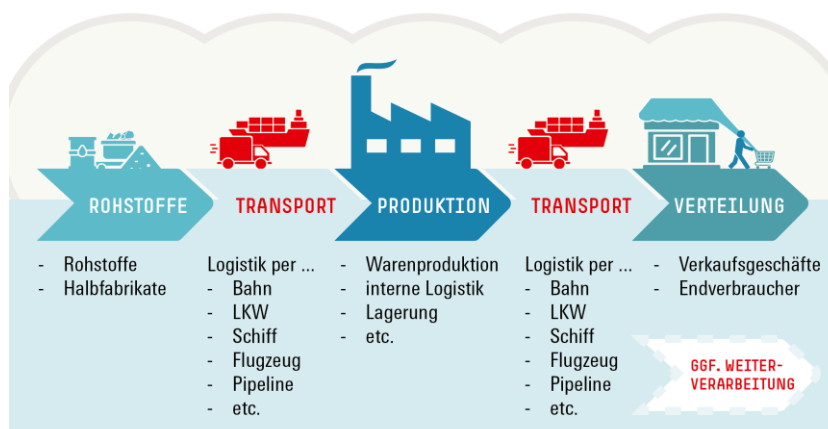
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II.1. Value Chain (goods)

Globale Wertschöpfungskette in der Warenproduktion



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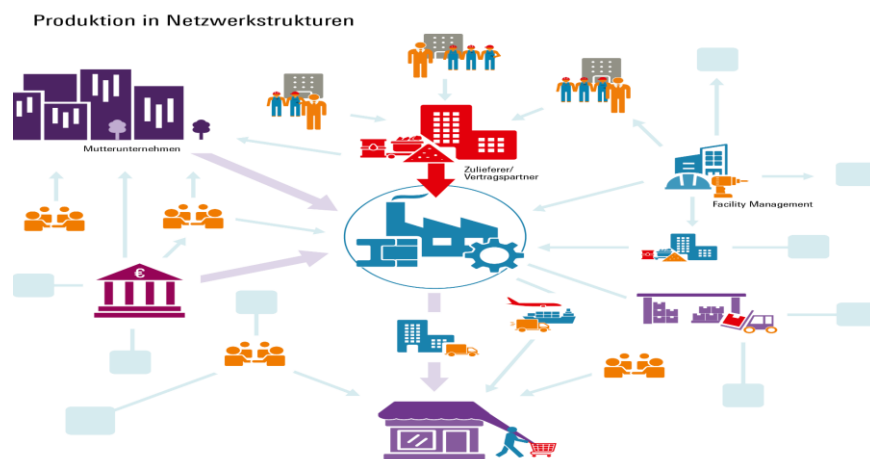
II.2. Value Chain

- The outsourcing of large parts of production to low-wage countries in the global South led to a fragmentation of production with globally distributed players.
- Value chains can be differentiated in "producer-driven" or "buyer-driven",,
 - "Producer-driven": producers have a central position (automotive); global subsidiaries, stable network of suppliers (partly belonging to the group).
 - "Buyer-driven": demand-driven (T&G), producers are dependent on decisions of large retailers or transnational brand companies.
- Despite their complexity, coordination and control of the value chain is possible without formal ownership structures.
 - In both models the process is controlled by TNCs ("lead firms,,).
- Close intermeshing of different companies in the value chain.

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II.3. Value Chain – Network structures



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III. Practicle examples of strikes in and along the value chain

1. Strike in the value chain



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- Truck drivers from a Polish group of companies went on strike for more than 2 months at a motorway service area in Gräfenhausen because they had not been paid.
 - There was not only a great deal of press coverage, but also a wide range of support for the striking truckers.
- The outstanding wages were fully paid, although it was not only the solidarity campaigns that led to the success,
 - but rather the pressure from the (large) companies in the supply chain (e.g. big players like DHL, Kühne and Nagel, Porsche, Audi, VW, DB Schenker, which fall under the German Due Diligence Act).
 - Numerous freight forwarders had placed transport orders with sub-contractors, who directly or indirectly commissioned the Polish group.
- The strike from Gräfenhausen led to the Federal Office for Export Control, launching investigations against the German (large) companies in Mazur's supply chain.

2. Strike along the value chain: example of Tesla

- Since Oct 2023 the Swedish trade union IF Metall called for strike to get Tesla sign a collective agreement for the employees in a garage.
 - Tesla does not operate any factories in Sweden, but only offers vehicle maintenance, repairs and charging infrastructure.
- Tremendous activities of solidarity strikes:
 - IF Metall extended the strike to repair shops of other companies that service Tesla vehicles.
 - In addition, nine other Swedish trade unions joined the solidarity strike:
 - Postal workers: Tesla does not receive any licence plates.
 - The electricians' union does not carry out any electrical work (maintenance or repair of Tesla's charging stations and garages), etc.
- Such solidarity strikes are legally admissible in Sweden.

III. Settled practice of ILO committees on solidarity strikes

- A general ban on solidarity strikes is not permissible (CFA).
 - Such a ban could lead to abuse.
 - Solidarity strikes are permissible if the original strike supported is itself lawful.
- CFA: If solidarity strikes, secondary boycotts and industrial action in support of sectoral CBAs are not permissible,
 - the right to strike would not only be unreasonably restricted,
 - but the right of trade unions to seek and negotiate sectoral CBAs would also be impaired.
- Especially the context of globalisation, characterised by an increasing interdependence of production and mutual dependence (CEACR).

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IV. Effects on German jurisdiction (1)

- **Solidarity strikes** „serve to support a main industrial dispute in another geographical or area of a CBA“.
- Pressure is exerted indirectly on the employer who is the opponent of the original labour dispute by harming a 3. party.
- Since 2007, the Federal Labour Court has generally considered supportive industrial action to be permissible.
- Solidarity strikes must be appropriate, necessary and proportionate when supporting the main labour struggle.
 - The fact that the direct opponent of the strike has no possibility of giving in is taken into account in the proportionality test.
 - In this respect, a certain proximity to the main labour dispute is demanded, which is affirmed by the BAG in the case of close economic ties between the opponents.
 - A solidarity strike along the value chain against the same employer would meet that criteria, although the strike against the TNC might be interpreted as more powerful.

Effects on German jurisdiction (2)

- The BAG already acknowledged 2009, that "part of the constitutionally protected freedom of coalitions to adapt their means of struggle to changing circumstances in order to remain equal to their opponents and achieve balanced collective agreements,,.
- If one considers that the ILO-committees do not impose any extra requirements on solidarity strikes, but merely take the legality of the main strike as a basis, the requirements for the (economic) interlocking of the different companies should not be set too high.
- A solidarity strike against different employers along the value chain thus has close economic ties due to the economic intermeshing and has to be considered admissible.

Legality of Solidarity strikes in EU member states



- Solidarity strikes are lawful if they support a lawful strike: Austria, Bulgaria, Cyprus, Denmark, Iceland, Italy, Malta, Portugal, Sweden or lawful even if the primary strike is unlawful (Belgium).
- Solidarity strikes are only legally admissible, if there´s a link to the main labour conflict, so that the employer may influence the negotiations: Czech Republic, France; Greece, Spain and Slovakia.
- Solidarity strikes are lawful in principle, although subject to specific rules: Croatia, Estonia Hungary, Finland, Ireland and Romania, or considered lawful only under specific (restricted) conditions (Poland).
- It is still disputed, whether solidarity strikes are admissible: Slovenia.
- Solidarity strikes are classified as illegal: Latvia, if the dispute does not concern a general agreement (sectoral-level CBA).
- **Solidarity strikes are considered unlawful:** Lithuania, Luxembourg and the Netherlands,

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Thanks for your attention!



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For further reading of the author:

- Die Umsetzung und Weiterentwicklung des LkSG. Rechtsfragen zum Schutz menschenrechtlicher und umweltbezogener Rechte in der betrieblichen Praxis, Frankfurt 2025 (forthcoming).
- Das Lieferkettensorgfaltspflichtengesetz – Handlungsoptionen für Mitbestimmungsakteure und Gewerkschaften, Frft 2023.
- The Supply Chain Due Diligence Act. Options for action for German co-determination actors and trade unions, HSI-Working Paper No. 19, Oktober 2023, online: https://www.hugo-sinzheimer-institut.de/faust-detail.htm?sync_id=HBS-008712
- Boykottbedingte Streikaktivitäten von HafentarbeiterInnen als zulässige Arbeitskämpfmaßnahme? in: Arbeit und Recht (AuR) 11/2018, p. 508-513.

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