



IFAMD Market Commentary 10/2014

- Industrial Action or Justice -

The latest strikes by German train drivers and pilots, initiated by the trade unions GDL and Vereinigung Cockpit respectively, highlight society's failure to develop instruments that do justice to the labour relations involved and their importance for third parties. Unlike in the case of classical labour relations, in which strikes resulting from the struggle between employers and employees pre-eminently harm the two sides, the costs of the train conductors' and pilots' strikes largely fall on the customers. The latter, however, are not party to the struggle and therefore cannot decide to accept or reject any offers in the negotiation, let alone propose their own offers. I would gladly pay an additional Euro for the Munich-Hamburg train fare if I could thereby alleviate the dire financial situation especially of young train drivers and if I could be sure that the extra money does not end up in large infrastructure projects of dubious use to society.

These labour relations are essentially all about equitable contractual arrangements. If two parties cannot reach an agreement, the institution that is responsible for equitable outcomes in society is the court system. Why should not an (arbitral) court decide whether, and to what degree, the train drivers' demands are justified?

If such courts existed, we may expect that labour negotiations would take a more fruitful course already in their shadow. Naturally, the constitution and the rules of such courts would have to be designed very carefully, otherwise their verdicts may not be honoured. (E.g., are the parties to be represented by members of the court?) Furthermore, a suitable legal framework is required.

Game theory has produced a number of models that could provide a basis for our considerations. For example, John Harsanyi, Nobel laureate of 1984, proposed a negotiation game that yields results which are compatible with the so-called Nash solution and which may therefore be accepted as fair and reasonable.¹ Yet these are merely details – fundamentally, the principle that conflict is to be resolved with the help of courts rather than in single combat should apply also to labour relations – especially if the losers of such duals are third parties not directly involved in the struggle.

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¹ Harsanyi, J.C. (1956), "Approaches to the Bargaining Problem Before and After the Theory of Games: A Critical Discussion of Zeuthen's, Hicks', and Nash's Theories," *Econometrica* 24: 144-157; Harsanyi, J.C. (1977), *Rational Behavior and Bargaining Equilibrium in Games and Social Situations*, Cambridge et al.: Cambridge University Press, Ch. 8.