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The Study on the Application of the Regulation of Strike Ballot in Craft Unions and the Implication of German Labor Law

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Abstract

Since the latest collective labor laws came into effect in 2011, craft unions which used to take care of the labor insurance and health insurance in the past, now become more independent and diverse, and even lead strikes. As a result, this phenomenon raises issues about how the procedural requirement for a strike to be applied on craft unions. Article 54, section 1 of the Act for Settlement of Labor-Management Disputes provides “A craft union shall not call a strike and set up a picketing line unless a strike has been approved by more than half of the members in total via direct and secret balloting,” which means a craft union should hold a poll, and get more than half of members’ approval before calling for a strike. However, professional unions are consist of members whose occupations are same, but from different enterprises. Therefore, how should “half of members’ approval” from a professional union be counted? Through analyzing German laws, this paper

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clarifies that the purpose of voting procedures is fulfilling “democracy in craft unions.” Therefore, the base number of “over half of members’ approval” should only include the number of members concerning the instant dispute. In addition, defying such procedure only resulted when a union violates its obligation toward members. Employers cannot claim for any compensation resulting violation of the procedural requirement of a strike. Due to placing Article 54, section 1 of the Act for Settlement of Labor-Management Disputes in the chapter of the Industrial Action, people often misunderstand the voting procedure as an issue of external rather than internal effect. Hence, the Act for Settlement of Labor-Management Disputes should not regulate the relationship of a craft union and its members, as it will unreasonably limit the right to strike of a craft union and its members. Article of the craft union should have the full autonomy in regulating the procedure of vote to strike in order to achieve the goal of direct democracy in a craft union.

Keywords: Craft Unions, Right to Dispute, Strike, Strike Ballot, Article 54, Section 1 of the Act for Settlement of Labor-Management Disputes