



Work Stoppages, Work Slowdowns, Work To Rule and Mass Sick-outs to protest against pay cuts

Following the 24 May meeting of all Geneva-based staff associations and unions and the resolution adopted therein, this paper prepared by FICSA spells out collective actions which staff and their associations/unions can now begin to implement against the ICSC decision to cut pay for staff in Geneva.

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Can UN staff strike? Yes! But depending on the modality we follow, we risk not being paid for some strike days

In his legal opinion concerning the right of staff members in the UN common system to strike, Attorney Edward Patrick Flaherty confirmed that while the right to strike is not expressly provided for in the Staff Regulations or Staff Rules of the UN Secretariat and its specialized agencies, the right to strike is a well-recognized right derived from the principle of freedom to organize and freedom of association as a general principle of law, confirmed by the international administrative tribunals. Furthermore, the right to strike is inevitably connected not only with the right to organize and associate, but most importantly, it is an inherent paradigm of the freedom to speech,

freedom of action and the right to criticize an administration in order to defend the interests of staff.

Intimidation aimed at discouraging staff from exercising their freedom of association may be reduced in this particular situation. Nonetheless, staff wants to be reassured that nothing “bad” will happen to them.

The cases where the Tribunals had to comment on the matter in question were usually related to the consequences of a strike, namely inadmissibility or unlawfulness of pay deductions, imposition of disciplinary sanctions or contract termination. Although an organization is entitled to deduct, from a staff member’s salary, an amount corresponding to the time not spent working, the deductions can only be made in accordance with the applicable written law of an organization.

Strike is a broad term which encompasses numerous types of industrial actions such as picketing, work stoppage, work slowdown, work to rule and mass sick-outs which are all described below.

Fear not: staff cannot be sanctioned for participating in industrial actions

UNAT has supported this view of the law and stated that:

“The unauthorized absence from work or attendance at the place of work while failing to perform duties removes the basis for payment of salary. As a result, the staff member loses his right to payment of his salary. However, his presence at his place of work and the objective of the work stoppage distinguish this situation from that of abandonment of his post”. (UNAT Judgment No. 249)

It is important to underline that even though an organization has the right to impose the said measure, it cannot act arbitrarily, in a discriminatory manner or treat staff unequally. Although an administration has certain discretion over this matter, it must be exercised judiciously, carefully and with a sense of accountability.

ILOAT judgment 2493 at consideration 11 clearly recognizes the right of staff to work stoppage even in the absence of specific rules.

From the above cited cases and jurisprudence it clearly appears that it is unlawful to impose sanctions, i.e., termination of the contract of employment or imposition of other disciplinary measures, as penalties for industrial actions by a staff member. UNAT clearly affirmed that the Staff Rules and Regulations dealing with disciplinary measures are not applicable in such circumstances.

Other collective industrial protest actions that won’t result in a pay cut

Striking by picketing, where staff stand outside the gates of their organizations to dissuade or prevent fellow staff, visitors and others from entering the building would understandably result in those picketing staff not getting paid for the hours that they were “absent” from their offices. And taking into account that the forthcoming industrial actions in Geneva are all about protesting the pay cuts, it does not make sense to do something that could cause the further loss of pay.

Therefore, staff should be offered a slew of options as they show their solidarity to the protest against these erosions in our conditions of service. Enumerated below are four options that the various staff associations and unions could provide their members on the strike days identified by their staff federations. For example,

if a decision to strike on an identified day is called from 0800 to 1800, all staff should be instructed by their staff associations and unions to choose any of the four options below.

1. Work stoppage

Work stoppage is defined as an occasion when a group of employees who show up at work decide to stop work, often as a protest or as a bargaining tool. There have been occasions when this action (contingent on a large number of staff participating) is sufficient to bring staff and management to the discussion table. Equally efficient has been the practice of work stoppages during meetings of governing bodies.

Staff will be asked to stop their work, mid-morning or mid-afternoon, or during lunch time, to meet at a designated location on the premises of the organization. Length of work stoppage needs to be decided by staff. It could be on a one day only basis, or one day each week, or every day until the ICSC session in July.

2. Work slowdown

A work slowdown is defined as an industrial action in which employees perform their duties but seek to reduce productivity or efficiency in their performance of these duties. A slowdown may be used as

either a prelude or an alternative to a picket, as it is seen as less disruptive as well as less risky and costly for workers and their union. Staff would be present at their workstation but would only act on urgent issues.

3. Work to rule

Work to rule is an industrial action in which employees do no more than the minimum required by the rules of their contract, and precisely follow all safety or other regulations, which may cause a slowdown or decrease in productivity, as they are no longer working during breaks or during unpaid extended hours and weekends (not checking email, for instance, or iPads, mobile). Such an action is considered less disruptive than a picket and obeying the rules is less susceptible to disciplinary action. Refusal to work overtime, travel on duty, or sign up to other tasks requiring employee assent are other manifestations of using work to rule as industrial actions.

Staff would do only what they have to do and make no accommodations. This would include not accessing any electronic equipment after working hours, during lunch break, and sticking to regulatory work hours.

During work stoppage, work slowdown, and work to rule,

staff should utilize their time by talking to each other and getting familiar with the technicalities of the contested issue, the pay cut in this instance. In addition, they could catch up on the readings of their respective technical journals and other publications. Finally, they should be ready to go to any impromptu town halls or other mass gatherings in their respective organizations.

4. Mass Sick-outs

A sick-out is defined as an organized period of unwarranted sick leave taken as a form of group protest, usually as a measure to avoid a formal picket. Staff are allowed uncertified sick leave, normally up to 7 days per year. This is not an option for staff representatives as all staff representatives should show up on strike day at their respective work stations and speak with staff – office door to office door on each and every floor and in every building of their organizations.

“Strike Days” should be regular and protracted to show how serious we are in our protest

Ideally, these “Strike Days” should be organized every week until the end of the 85th ICSC session in July. This would show the ICSC and our respective agencies that we are

primed and ready to undertake the above actions unless and until they unequivocally show us that there would be no pay cut in Geneva.

Obtain legal insurance asap!

In the meantime, staff should all be encouraged to join the staff association or union in their respective organization to avail of legal insurance. In addition, they should be encouraged to enroll in other private legal protection insurances just in case they experience some retaliation by their administrations or in the event that they would lodge an appeal against the pay cut at the UNDT or ILOAT.

Object to this pay cut!

Together, we have a voice!

Together, we stand a chance!

1. With research assistance from Maria Dweggah