



COMMUNICATION 08/20

Legal Protection Insurance – Q&A with Fortuna

To: Chairs, Member Associations/Unions
Members of the Executive Committee
Chairs, Members with Associate Status
Chairs, Associations with Consultative Status
Presidents, Federations with Observer Status
Chairs and Vice-Chairs of Standing Committees
Participants and Guests of the 73rd FICSA Council

Geneva, 4 February 2020

From: Evelyn Kortum, General Secretary

FICSA urges its members to consider the importance of having legal expenses insurance that covers employment law matters in your international organization. Legal expenses insurance is a class of insurance that facilitates staff access to law and justice, by covering the costs incurred in case of an unforeseen legal matter. Such costs normally include a lawyer's fees and related legal expenses.

Unfortunately, this issue is often only considered when a staff member approaches a lawyer for assistance about a potential legal dispute. At this point, the dispute may have already started, and the staff member may face deadlines, heightened stress and require urgent help. When potential clients do not have legal expenses insurance, this may impede them from obtaining competent legal advice.

FICSA's role as a Staff Federation is to provide adequate resources and assistance for staff associations and staff members throughout the world. FICSA Members had requested FICSA to explore possibilities of offering legal insurance for its members. As most administrations already have internal legal departments currently, there is already inequality of arms. Legal insurance covering employment law is imperative to facilitate access to justice within your international organization. Legal insurance can cover matters within your organization that are unforeseen and affect your employment status, workplace conflicts, whistleblowing, selection process, and investigations. With this administrative inequality in the workplace, having legal insurance itself can signal to the administration that staff will legally contest given unfair or unjust administrative decisions. In order to protect both yourself and those around you, it is necessary to sign up for legal insurance.

Please see the Questions and Answers below for more information regarding Fortuna Insurance coverage.

1. Do Swiss Insurance companies adhere to international judicial rules?

- **Response:** No, Swiss insurances underly the rules of FINMA, which is an independent surveillance authority of the Swiss financial markets.

2. What will be the minimum of adherents and how does the process work?

- **Response:**
 - More than 1000 staff would be desirable due to the (minimal) lower cost. New adherents have to go through their staff association/union who will then contact FICSA. Each semester FICSA establishes an updated list of members and forwards this to Fortuna.
 - Staff associations/unions are encouraged to include direct coverage for all their members in their dues system (example: WHO/HQ)

3. What is the overall process of bringing a case to Fortuna?

- **Response:**
 - (a) The staff member needs to contact the President of the staff association/union who is responsible for informing the FICSA Secretariat and for passing the case to Fortuna within ten days from the date of receipt.
 - The staff member needs to provide proof that options within the organizations were exhausted to settle a conflict
 - (b) Fortuna lawyers will consider the merits of the case and revert to the President of the staff association/union and the President of FICSA in another ten days maximum.
 - (c) The President of the staff association/union has to relay such a decision to the respective staff member without any delay.

4. Can I choose the lawyer of my choice?

- **Response:** Fortuna works with Swiss-based lawyers which they will allocate to any respective case.

5. Can I use a lawyer outside Switzerland?

- **Response:** Yes, but only for the first evaluation of the case and for extrajudicial negotiations up to CHF 3,000. This amount is included in the maximum annual insurance coverage per person of CHF 15,000. Then a Swiss-based lawyer will take the case.

6. Which jurisdiction applies?

Response: Fortuna will only cover those cases that are treated on Swiss grounds by the ILO Administrative Tribunal (ILO AT) and the UN Appeals Tribunal (UN AT).

7. Can Fortuna cover judicial procedures outside of Switzerland?

- **Response:** Fortuna will only cover those cases that are treated on Swiss grounds by the ILO Administrative Tribunal (ILO AT) and the UN Appeals Tribunal (UN AT). The ILO AT is only represented in Geneva, but the UN AT is based in New York. However, it holds sessions also in Geneva.

8. When will the insurance come into force for the member?

- **Response:** Upon payment of the contribution by the member.

9. Is the insurance coverage independent from the place I work in the world?

- **Response:** Yes. Your duty station could be London, Kuala Lumpur, Manila, Cairo, Brazzaville, Copenhagen, Vienna, etc. The contract is between Fortuna and FICSA, and both are based in Switzerland. However, the respective court needs to be in Geneva, or hold its session in Geneva.

10. What will be the yearly premium?

- **Response:** If FICSA can gather more than 1000 adherents, the premium will be CHF 80/head/year. Below 1000 adherents, the premium will be CHF 100/head/year

11. What is the ceiling covered by Fortuna Insurance for an individual?

- **Response:** CHF 15,000 per member and per dispute which includes:
 - The cost of a lawyer
 - Any compensation for legal fees awarded to the other party
 - Cost of expert opinions
 - Cost of a mediation process and out-of-court negotiation cost.

12. What is the ceiling covered by Fortuna Insurance for mass litigation?

- **Response:** CHF 200,000. Mass litigation is when there are ten or more staff filing against their administration on the same issue(s).

13. Is there a franchise (deductible) for me to cover?

- **Response:** No

14. Fortuna Insurance covers:

- Issues that arose after the contract came into force, except cases that have started before payment of the first contribution.
- Disputes with your employer and assistance with the organization-internal bodies in Geneva
- Disputes with your employer and assistance with the tribunals or administrative authorities of the UN or the ILO in Switzerland
- Assistance in disputes with the UN Pension Fund (accident, disability, illness) under the UN and ILO administrative law in Switzerland
- Formal or informal disputes or grievances arising in the context of your employment with their subject international organizations
 - Cases must be of merit to be covered
 - Cases must not be frivolous

15. When will the insurance come into force?

- **Response:** Upon payment of the contribution by the member.

16. If I win my case, will I receive the compensation?

- **Response:** This is a matter between the respective lawyer and Fortuna. Normally, costs due to Fortuna are recovered by Fortuna.

17. What are the legal obligations of the claimant?

- **Response:** The claimant has the duty to cooperate with the insurer by providing all of the information available. If the member does not cooperate, Fortuna will not cover the case.

18. How can I join the insurance coverage?

- **Response:** Contact your staff association/union and ask them to add you to the list of interested staff that should be sent to FICSA as soon as possible after being acquainted with the conditions laid out here.

19. Do the premiums increase if there are a large number of cases?

- **Response:** Fortuna has the right to change the premium on an annual basis given that Fortuna provides notice at least three months prior to the Annual Due Date agreed-upon with the Policyholder.

20. If members wished to withdraw from the insurance, what would be the modalities (and penalties, if any)?

- **Response:** There is no penalty. Notice of cancellation of the Fortuna legal insurance must be provided at least 3 months prior to the Annual Due Date fixed with Fortuna.