



COMMUNICATION 16/20

Legal Protection Insurance – follow-up and updated Q&As

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, 24 February 2020

From: Evelyn Kortum, General Secretary

In [Communication 08/20](#) we informed you about progress on discussions about the Legal Protection Insurance and we sent you Q&As. Post the 73rd Council we expanded the Q&As on your requests to include your additional queries. Below please find the additional questions starting at question 21:

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:**
 - i. More than 1000 staff would be desirable due to the (minimal) lower cost (more information provided by Question 10). 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.
 - ii. 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:**
 - i. (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 5 days from the date of receipt.
 - The staff member needs to provide proof that options within the organizations were exhausted to settle a conflict
 - ii. (b) Fortuna lawyers will consider the merits of the case and revert back to the President of the staff association/union and the President of FICSA in another 5 days maximum.
 - iii. (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 commissioned or appointed by Fortuna
 - 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 10 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

- iii. Disputes with your employer and assistance with the tribunals or administrative authorities of the UN or the ILO in Switzerland
- iv. Assistance in disputes with the UN Pension Fund (accident, disability, illness) under the UN and ILO administrative law in Switzerland
- v. Formal or informal disputes of 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. A notice of cancellation of the Fortuna legal insurance must be provided at least 3 months prior to the Annual Due Date fixed with Fortuna.

21. Is there a time limit to sign up for the insurance?

- **Response:** The deadline to sign up for the insurance is 1st of March. Latter applications can be submitted for 1 April. The faster the better but Fortuna will stack the responses and once 1000 plus are received, the contribution will go down to CHF80/year/member !

22. Would staff in regional and country offices be covered by Fortuna? Would Fortuna help with regional and global appeals?

- **Response:** Yes, if the headquarter of the organization is located in Geneva, all staff in regional and country offices will be covered by Fortuna. (example: WHO has its headquarter in Geneva. Therefore, staff in all regional and country offices of WHO are covered.)

23. Is it necessary to put forward the names of all those members insured by a staff association/union?

- **Response:** Depends. Normally Fortuna requires the names of the insured for control purposes. However, in case that all members of your staff organization are insured, a name is not required as long as the number of members are submitted yearly to update Fortuna's statistics. However, Fortuna needs to have all members' names if not all members are insured.
- 24. If a staff member wants to use a particular lawyer proposed by FICSA who is well-versed on the case at hand, what are the conditions?**
- **Response:** Fortuna would potentially be in agreement to use a lawyer on the FICSA list who has the relevant competencies on the ILO/UN judicial procedures. However, a request to Generali/Fortuna is mandatory before the lawyer is contacted. Their preference remains a lawyer based in Switzerland.
- 25. Who are the lawyers based in Geneva and who are knowledgeable of the relevant jurisdictions?**
- **Response:** Christopher Bollen, Mathis Kern, Edward P. Flaherty, Nathalie Rossette-Cazel (Geneva area/Thoiry), Neil Fishman
- 26. Are there other lawyer well-versed in international jurisdiction and who have been recommended by FICSA members recently?**
- **Response:** Rishi Gulati, Ludovica Moro, Neha Dubey