

2011

November - December

Right to strike

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Striking is a fundamental right recognized by a large majority of countries. Several international treaties mention it explicitly, whether it be the *International Covenant on economic, social and cultural rights* and the *European Social Charter*, or implicitly, like the *Universal Declaration of Human Rights*, the *European Convention on Human Rights* or the *ILO Convention n° 87*.

International civil servants also enjoy the right to strike, which has been recognized as legitimate instrument for the furtherance of staff interests, and this as soon as the 1960s and 1970s, a period in which many international organizations witnessed their first major strikes.

FICSA considered already at that time that even if staff members have to serve an international organization faithfully so that their day-to-day service may help realize its objectives successfully, they still have with the Organization an employer-employee relationship, which is not fundamentally different from similar relationships one might find within Member States.

But as the right to strike of international civil servants is generally not specifically regulated by international organizations, some general principles as developed by the ILO should be followed in order to avoid litigation.<sup>1</sup> These are:

1. *The obligation to give prior notice.*
2. *The obligation to have recourse to conciliation, mediation and arbitration procedures as a prior condition to declaring a strike, provided that the proceedings are adequate, impartial and speedy and that the parties concerned can take part at every stage.*
3. *The obligation to observe a certain quorum and to obtain the agreement of a specified majority of the staff members affiliated to the Staff Association.*
4. *The obligation to take strike decisions by secret ballot.*
5. *The adoption of measures to comply with safety requirements and for the prevention of accidents.*
6. *The establishment of a minimum service in particular cases.*
7. *The guarantee of the freedom to work for non-strikers.*

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1 ILO Principles concerning the Right to Strike, *International Labour Review*, Vol. 137 (1998), No. 4. To be found [here](#). It should be noticed that international administrative tribunals will not automatically consider the treaties on which these principles are based to be binding.

The ILOAT, which has decided that the right to strike is a general principle of law, has been confronted with complaints related to these various principles. It had thus the occasion to confirm *inter alia* the principle of the minimum service, by which it recognized the right of an Administration to **requisition workers**. The Organization can take any action required to safeguard its interests and the continuity of its work, and such action includes an order to the staff to perform their duties. Following categories of personnel might have to follow a back-to-work order: 1) most senior staff 2) staff responsible for urgent and fundamental duties and 3) staff necessary for the functioning of the governing bodies comprising the delegations of Member States of an international organization. Obviously, it will always be a difficult balancing act to determine when a back-to-work order is legitimate or already infringing the right to strike. In case of litigation, it will be the Tribunal's prerogative to determine which duties are essential or not.

The ILOAT has moreover ruled that **wage deductions** were legal. This is crucial as it can determine the success of a strike. One way to reduce the negative impact of wage deductions is to establish a *solidarity fund* benefitting those who have to carry the biggest financial burden (low income staff members and staff who dedicate more days for the action).

Finally, when organizing a strike, staff should always prevent abuses whether it be damaging premises and property or physical violence against persons. Moreover, strike picketing should only be aimed at persuading as many persons as possible to stay away from work and cannot be accompanied by violence or coercion of non-strikers in an attempt to interfere with their freedom to work.

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