

### Warning strikes are admissible!

**“Warning strikes organised by trade unions are also admissible during ongoing collective bargaining following expiry of the duty to maintain industrial peace”**

(BAG (Federal Labour Court) dated 12.09.1984).

**“The collective bargaining parties determine for themselves when negotiation possibilities have been exhausted”**

(BAG dated 21.06.1988).

- The right to strike is a **basic right** for assertion of our claims (Art. 9 Subsection 3 of the Basic Law).
- Participation in a lawful strike **does not constitute a violation of the employment contract**. Disciplinary rulings by the employer as a result of participation in a strike are prohibited. **The strike-hit employer is not allowed to issue striking employees with written warnings or even terminate them.** Employees have an entitlement to continued employment following ending of the strike.
- The employment relationship is suspended during the strike. During this time, employees are not required to work and are **not subject to the employer’s right to issue instructions**. There is no entitlement to work remuneration for the duration of the strike. Members of trade unions receive strike support.
- **The ordering of overtime due to participation in a strike is unlawful and ineffective.**
- There is no obligation to **make up** working hours lost through the strike.
- During industrial disputes, the employer is not entitled to organise so-called **emergency service work** unilaterally and to oblige individual employees in this respect (BAG dated 30.03.1982–1 AZR 265/80 and LAG (State Labour Court) Hanover dated 01.02.1980–2 Sa 110/79 as well as dated 22.10.1985–8 Sa 32/85). The regulation of the modalities of an emergency service necessitated by an industrial dispute is –at least initially– a joint task of the employer and the trade union leading the strike (BAG dated 31.01.1995–1 AZR 142/94). Pre-formulated declarations of submission are null and void. In other respects, emergency service work can only be required for the purpose of maintaining the real value of the property, **not however for maintaining business operations** (BAG dated 30.03.1982–1 AZR 265/80).
- **The rejection of direct strike work is not unauthorised refusal to work** (BAG dated 25.07.1957).
- To ensure smooth, orderly and successful organisation of the strike, all colleagues must comply with the **instructions of the strike leadership**.
- The strike leadership decides on ending or interruption of the strike.

