

WIR MACHEN TARIF

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No ifs or buts:

Your Rights During a Strike!

Successful industrial action depends on everyone's support and participation, and every employee has the right to strike, as guaranteed by article 9(3) of Germany's constitution ("Grundgesetz"). A strike is only ever the last resort when trying to enforce legitimate demands made by a trade union – but without the possibility of a strike, collective bargaining would be **nothing more than "collective begging"**, as stated even by the Federal Labour Court ("Bundesarbeitsgericht - BAG"). This is why it is crucial for as many employees as possible to join a strike when one is called.

For many, going on strike is an unusual situation. To ensure all questions are answered should such a situation arise, we recommend taking note of the following points:

- **Only the trade union ver.di** (or a ver.di-appointed representative, e.g. a local strike committee) **is allowed to call a strike, including warning strikes ("Warnstreik")**. If a call for strike action is announced, ver.di provides cover to its members for the duration of the strike – reaching from strike pay ("Streikunterstützung") to legal representation in case of a dispute.
- Any employee – whether a trade union member or not – **is allowed to take part in a (warning) strike**.
- An employer is not allowed to prevent or prohibit participation.
- The employment relationship is suspended for the duration of the strike. During this time, employees do not need to perform work and **are not subject to their employer's managerial authority**.
- Employees who take part or plan to take part in a strike are **not obliged to share this information with their employer** or **check in/out using time tracking systems**. However, once a strike had ended, for the purpose of payroll accounting, employers can/may ask employees to provide information regarding when and for how long they participated in the strike.
- Only ver.di members can vote in strike ballots held by ver.di. This means that non-unionised colleagues cannot vote on strike action!
- For the duration of a (warning) strike, any employee has the right to take part in a **strike or protest**. All colleagues should exercise this right, to ensure that the demands made gain broad public attention.
- Employees can talk to colleagues and potential strikebreakers at any time to encourage them to support a strike and its goals.
- Should a strike/protest lead to problems with the police, the only party responsible and that should be referred to is **the local ver.di strike committee**. Participants **only need to provide their personal details** - they are not required to share any additional information.
- If required, ver.di members receive **competent legal representation**.
- Employers do not generally pay employees for any hours not worked during a strike. Job centres do



not take on this responsibility either. However, **ver.di does provide its members (and only its members) with strike pay for the time they participate in a strike.** This means that non-unionised colleagues receive neither pay nor unemployment benefit if they join a strike – another good reason to become a ver.di member!

**show support for strikes to enforce demands,
and join ver.di today!**

- During industrial action, employers may decide to lock out employees. If this happens, employers are not allowed to differentiate between employees who are on strike and strikebreakers. ver.di members are eligible to claim strike pay even in the event of a lockout.
- During a strike, a works council or staff council retains its rights to participation set out in the Works Constitution Act/Federal Staff Representation Act (“Betriebsverfassungsgesetz - BetrVG”/“Bundespersonalvertretungsgesetz - BPersVG”). However, BAG case law denies rights to participation in cases **where an employer takes measures in response to industrial action** (cf. BAG – 1 AZR 54/76). This limitation applies within the scope of the dispute and for its duration (cf. BAG – 1 ABR 70/16; Regional Labour Court “LAG Hamburg” – 2 TaBV 1/18).
- Nevertheless, a works or staff council’s right to information remains unaffected (cf. BAG – 1 ABR 2/10, BAG – 1 ABR 7/02 for sec. 80 para. 2 sent. 1 BetrVG transferable to sec. 68 para. 2 BPersVG). A works or staff council also has many other responsibilities during a strike, including responding to employees’ increased need for advice and ensuring compliance with the law (e.g. regarding the use of temporary workers), collective agreements, and work regulations as well as monitoring health and safety regulations (e.g. regarding the use of strikebreakers).
- Just like any other employee, a member of a works or staff council acting in their capacity as an employee can also participate in industrial action, join a strike committee, support strike efforts directly or through picketing.

**Unite and act now,
demonstrate determination,**