

# FAQ „STRIKE“

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## → What are the unions demanding

The demands can be found in the current strike call.

## → Is there a 'Membership vote' before strikes?

According to the GDBA strike rules, there is only a ballot in the case of unlimited strikes. In the case of actions such as hourly work stoppages, flash mobs, delayed start of a performance, performance cancellations, public rallies, press actions and other unexpected industrial action, there will be a short-term call by the central strike management. A ballot is not necessary for this.

## → What are the requirements for a lawful strike?

Strikes are among the strike actions measures protected under constitutional law by Article 9 (3) of the Basic Law. There is no general law on strikes, but there is case law consisting of a large number of individual decisions. The case law of the Federal Labour Court has defined the following requirements for a strike:

- The strike must be in pursuit of a collectively agreed objective
- the strike is supported by a trade union
- the strike takes place after the expiry of the peace obligation
- all possibilities of reaching an agreement have been exhausted (ultima ratio principle)
- the strike must be proportionate. (no escalation, e.g. to "destroy" the employer).

A declaration that negotiations have 'failed' is not required (BAG 21 June 1988 -AZR 651/86). The only thing that matters here is whether the trade union comes to the conclusion that further talks are of no use at the moment and that pressure must first be built up on the other side.

## → What is the local strike management?

The local strike management gives the workforce the sole instructions on how exactly to strike. It hands out the strike vests and keeps a strike list to document in who has taken part in the strike. At the end, the local strike management collects the strike vests and forwards the strike list to the GDBA.

## → How does a strike work? What is a strike call? And when am I allowed to strike?

The prerequisite for a legal strike is an official call by the relevant trade union. It is sent to all employees, including non-members. They may also take part in the strike. As a rule, the union calls for specific measures to be taken at specific theatres. The call to strike is communicated to employees by distributing flyers outside and inside the theatre, by electronic messaging services and by posting notices (only on the union notice board).

## → Can I be warned or non-renewal if I go on strike?

No. A lawful strike authorises employees to stop work and they must not suffer any disadvantages as a result. Non-renewal due to participation in a strike would therefore be inadmissible. A warning may not be issued (prohibition of reprimands, Section 612a BGB). The reduction of wages by the employer is not a disciplinary measure, as the employment relationship is suspended during the strike.

## → Can my salary be deducted?

Yes, but the employer may only reduce your pay if they can prove that you were actually on strike. The employer may not demand a strike list; the employer itself must document which employees took part in the strike in order to deduct wages.

If you are a member of the striking trade unions, you will receive strike pay from your trade union as compensation.

→ **Do I get money if I take part in strike action?**

Employers are entitled not to pay for working hours on strike, but the GDBA pays its striking members a strike allowance, including for guests who are affected by strikes, just take a look at the strike regulations.

→ **Are people who are not members also allowed to strike?**

Yes, when we call strikes, all employees are allowed to strike, regardless of whether they are members of a trade union or not.

→ **Are apprentices and members of opera, dance or theatre studios also allowed to strike?**

It depends on the individual case. Trainees and studio members are allowed to strike if their own interests are affected. In practice, the employment relationships of studio members are regulated very differently, so it is not advisable to take part in a strike without individual examination. As the negotiations on working hours do not affect the interests of trainees, or only marginally, they are not called to strike.

→ **Is it possible to strike with an In-house collective agreement ?**

If there are existing In-house collective agreement at the theatre and if the demands made for the collective agreement are already met by the In-house collective agreement, it depends on the individual case. However, measures should never be taken without a direct strike call from the central strike management!

→ **Am I still covered by social insurance during a strike?**

To put it briefly: yes. In the area of pension insurance, there may be minimal changes in the cent range (only in the case of longer strikes), which can be compensated for by voluntary payments. Membership of the pension insurance

scheme is not limited in time, only if the strike lasts for more than a full month are these periods not counted towards the waiting period and pension increase. This can be corrected by voluntary contributions.

Health insurance: Membership during the strike continues (§ 192 Para. 1 No. 1 SGB V), as does long-term care insurance (§ 49, Para. 2 SGB XI)

→ **Can I go on strike if I am ill?**

Yes, but you will not receive sick pay during this time. In general, however, you are not allowed to do anything during sick leave that delays the recovery process.

→ **What does the obligation to keep the peace mean?**

The obligation to maintain peace obliges the trade unions not to take industrial action until the expiry of the applicable collective agreement. Work stoppages, but also 'bad work', such as 'dawdling', being late or 'working to rule' are strikes.

→ **Trespassing**

The employer may expel strikers from the company premises within the scope of his domiciliary rights. In this case, the instruction must be followed and the strike must continue outside the theatre premises.

→ **Am I allowed to distribute flyers or is that already a strike?**

The trade unions have the right under Article 9 (3) of the Basic Law to provide information for their interests and for the purpose of recruiting members. This is not a strike, even if, for example, flyers are distributed for a short time during the service and this only slightly disrupts operations.

→ **What is #StoppNVFlatrate?**

#StoppNVFlatrate was an information and publicity campaign organised by the GDBA, VdO and BFFS trade unions. It was not a strike, as operations were not, or only minimally, affected. [www.stoppnvflatrate.de](http://www.stoppnvflatrate.de) is the campaign page.

→ **What is the role of works or staff councils?**

As a body, the staff and works council must remain neutral in relation to industrial action; it may not support the strike as a body. However, individual works and staff council members may exercise their trade union rights as employees and therefore also strike. Works and staff council meetings can also take place during industrial action, and participants are entitled to remuneration!

→ **Am I entitled to strike pay?**

The employer may deduct wages for working hours on strike and the trade union pays compensation – strike pay. The requirements and the amount are regulated in the GDBA strike regulations. The strike pay is exempt from social security contributions.

→ **How is time recording handled during the strike?**

If the theatre has ordered the use of a time recording system, this instruction also applies during a strike and must be observed. It is therefore not necessary to ‘clock out’ for the strike, and the strike time is by no means ‘absence time’.

→ **What exactly is a strike?**

A strike is a collective, planned and temporary cessation of work by a large number of employees within a profession or company in order to achieve a common goal.

→ **Can I stay at home or go home to strike?**

It depends on the instructions of the local strike management. No individual actions. In general, strikers' obligation to perform is suspended for the duration of the strike, so you can also go home if the local strike management authorises this.

→ **What is a wildcat strike?**

Strikes by employees without the official authorisation or consent of the union leadership are known as ‘wildcat strikes’. Actions that go beyond the ordered industrial action are also wildcat strikes and should therefore be avoided.

→ **What are wave strike?**

A wave strike is a type of strike in which work stoppages take place at short notice, do not last long and are not announced to the employer in advance. (Surprise effect)

→ **What is a warning strike?**

This is understood to mean a work stoppage lasting only a short time (30 minutes to a few hours), e.g. to accompany ongoing negotiations and exert pressure on the employer side. The same conditions must be met for a warning strike as for a normal strike.