

Legal Protection Regulations

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Preamble

These Regulations are based on Art. 15(1)a of the By-laws of syndicom, Trade Union, Media and Communication dated 7 December 2013.

Art. 1 Purpose

- ¹ Legal protection is granted to members who, as a result of their professional or trade union activities, become involved in legal disputes (exclusively in accordance with Swiss law and for matters within Switzerland). Specifically, such matters are:
 - a. disputes arising from the employment relationship;
 - b. criminal proceedings that are connected with their professional or trade union activity;
 - c. disputes about replacement income under social insurance incl. daily sickness allowance insurance;
 - d. insolvency proceedings arising in connection with the employment relationship;
 - e. disputes under the Road Traffic Act that are connected with professional practice (excl. commuting) and provided the employer is not obliged to provide legal protection on the basis of its duty of care;
 - f. disputes which arise as a result of membership of syndicom or through active trade union activities, provided those activities are protected by the constitutional freedom of association and expression and by the right to strike.
- ² In the case of other disputes that are of fundamental importance to syndicom according to its By-laws, the Executive Board decides whether to conduct proceedings; specific instances of these are matters pertaining to equal rights and opportunities in connection with laws relating to foreigners, migration or equality.
- ³ The purpose of legal protection is to represent the interests of members vis-a-vis employers, official bodies, authorities and the courts. It comprises advice, interventions and the conduct of proceedings.
- ⁴ Legal protection is free of charge for members.

Art. 2 Non-professional legal protection

- ¹ Private legal disputes are excluded from legal protection (see Annex 1).
- ² Members and solidarity members of syndicom can take out insurance on the basis of a group insurance policy with "COOP Rechtsschutz" (private and motor legal protection). The "General Terms of Legal Protection" of Coop Rechtsschutz AG apply.

Art. 3 Personal eligibility requirements

- ¹ Entitlement to legal protection applies to members of syndicom who:
 - a. have been members for more than three months;
 - b. have no membership fee arrears;
 - c. have not given notice to terminate their membership.
- ² Legal protection is also granted to the surviving spouse, surviving registered partner, surviving cohabiting partner and underage children of the deceased member provided:
 - a. the legal rights are attributable to the employment relationship or the trade union activity of the deceased member and
 - b. the persons concerned were supported by the deceased member.

Art. 4 Employees of syndicom

- ¹ Full legal protection is granted to employees who are members of syndicom and become involved in legal disputes as a result of their activity for syndicom.
- ² Legal protection for legal disputes involving staff who are members of syndicom and who are taking action against syndicom as their employer is excluded.
- ³ For cases as referred to in para. 2, syndicom takes out group insurance for its staff, provided they are members of syndicom. The premiums for this insurance are paid in full by syndicom.

Art. 5 Solidarity members

Solidarity members in accordance with Art. 7 para. 2 of the By-laws are not entitled to legal protection. The Regulations for Solidarity Members apply.

Art. 6 The self-employed

- ¹ In principle, members who are self-employed and who fulfil the requirements set out in Art. 3 para. 1 of these Regulations have legal protection in connection with their professional activity.
- ² Legal protection covers the following areas of law (exclusively in accordance with Swiss law and for matters within Switzerland):

	Comprehensive legal protection	Advisory legal protection only
Social insurance law	x	
Contract law	x	
Copyright	x	
Right of personality	x	
Rental and lease of business premises		x
Insolvency law and collection measures		x
Company law		x

- ³ The self-employed do not receive legal protection for legal disputes with their staff.

Art. 7 Membership fee arrears

- ¹ Members in arrears on payment of membership fees will be allowed a reasonable period within which to pay their outstanding dues before legal protection is refused. If the arrears are due to a financial situation for which the member is not to blame, the Head of Legal decides whether, by way of exception, legal protection can nonetheless be provided.
- ² In the case of urgent interventions that cannot be deferred, by agreement with the Head of Legal and as per the decision of the Regional Management, initial legal advice may be given despite the arrears.
- ³ The legal protection granted may be restricted if the classification is too low due to no earnings declaration having been provided. The Head of Legal decides on any restrictions.

Art. 8 New members

- ¹ By way of exception, new members who do not fulfil the requirements set out in Art. 3 para. 1(a) may be given legal protection if:
 - a. the point of law is relevant to syndicom from a trade union perspective;
 - b. the member is in a situation of particular urgency.
- ² In such cases, only the Head of Legal can decide whether to grant legal protection.

Art. 9 Formal requirements for the provision of legal protection

- ¹ The member must sign the power of attorney presented to them, and the request for legal protection.
- ² The member must provide the regional secretary or the Legal department employee with complete documentation and truthful information.
- ³ The member must follow the directives of the regional secretary or the Legal department employee.

Art. 10 Submission of the request

- ¹ The member must submit the request for legal protection to a regional secretariat of syndicom. If necessary, the regional secretary passes the file on to the central Legal department for further processing.
- ² If the member themselves engages an external lawyer, syndicom will not pay the costs of representation by said lawyer.
- ³ The Head of Legal decides whether, by way of exception, syndicom will instruct an external lawyer.

Art. 11 Refusal of request for legal protection

- ¹ A request for legal protection may be refused in particular:
 - a. if the eligibility requirements in accordance with Art. 1 para. 1 and Art. 4 para. 2 of these Regulations are not met;
 - b. for legal disputes the cause of which was prior to the member joining syndicom;
 - c. if the request for legal protection is submitted shortly before the expiry of the deadline;
 - d. if actions are taken that are in breach of syndicom's By-laws and trade union principles;
 - e. in hopeless cases;
 - f. in criminal cases when the member is at obvious fault;
 - g. if the member has already instructed an external lawyer or another organisation in the same matter.
- ² The appropriate regional secretariat or the central Legal department decides on the refusal of a request for legal protection.
- ³ The member may object to the refusal of a request for legal protection by a regional secretariat or the central Legal department within 30 days. The objection will be assessed by syndicom's central Legal department or by the Executive Board.
- ⁴ If the chances of success are low, the provision of legal protection may be made contingent upon the member making a statement to the effect that they will personally pay any compensation to the opposite party.

Art. 12 Withdrawal of legal protection

- ¹ Legal protection may be withdrawn in particular if:
- a. the member leaves syndicom or gives notice to leave while the case is being handled;
 - b. the member has made untrue statements or failed to disclose important details and information in their request or during the course of the procedure;
 - c. the member flouts these Regulations;
 - d. the member does not follow the directives of the Legal department, the regional secretary or the externally briefed lawyer;
 - e. the member continues the process beyond the first instance, without the express consent of the Legal Protection department;
 - f. the member rejects a settlement which the regional secretariat or Legal department deems acceptable;
 - g. the member violates the By-laws of syndicom in any manner;
 - h. the member is represented or advised by a lawyer or another organisation not instructed by syndicom.
- ² The appropriate regional secretariat or the central Legal department decides on the withdrawal of legal protection.
- ³ The member may object to the withdrawal of legal protection by a regional secretariat or the central Legal department within 30 days. The objection will be assessed by syndicom's central Legal department or by the Executive Board.

Art. 13 Subsidiarity

Legal protection granted by syndicom is subsidiary to the relevant benefits provided by private or state-owned legal protection institutions (legal expenses insurers, legal aid, etc.).

Art. 14 Assumption of costs

- ¹ The following costs are assumed:
- a. The costs of briefing external lawyers in accordance with Art. 10, para. 3;
 - b. Court fees and procedural costs.
- ² Penalties are not paid. The Head of Legal decides on exceptions.

Art. 15 Reimbursement of legal protection expenses

- ¹ syndicom's share in legal and procedural costs may be reduced, set aside or claimed back from the member in the following instances in particular:
- a. should it subsequently be established that the member's conduct was grossly negligent;
 - b. should the member provide untrue facts;
 - c. should the member be convicted for a criminal offence.
- ² If a member leaves the trade union of their own accord within two years of the end of a legal protection procedure or if their behaviour triggers their exclusion from the trade union, said member shall be obliged to reimburse in full the costs of protecting their rights.
- ³ In this case, the costs of the work done will be invoiced by syndicom at the rates specified in Annex 2.

Art. 16 Final provisions

¹ The Regulations are adopted by the Governing Board on 15.11.2014 and take effect on 1.1.2015.

² The Governing Board is responsible for amending the Regulations.

³ When these Regulations take effect, all preceding Regulations relating to legal protection cease to be effective.

Bern, 15.11.2014

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