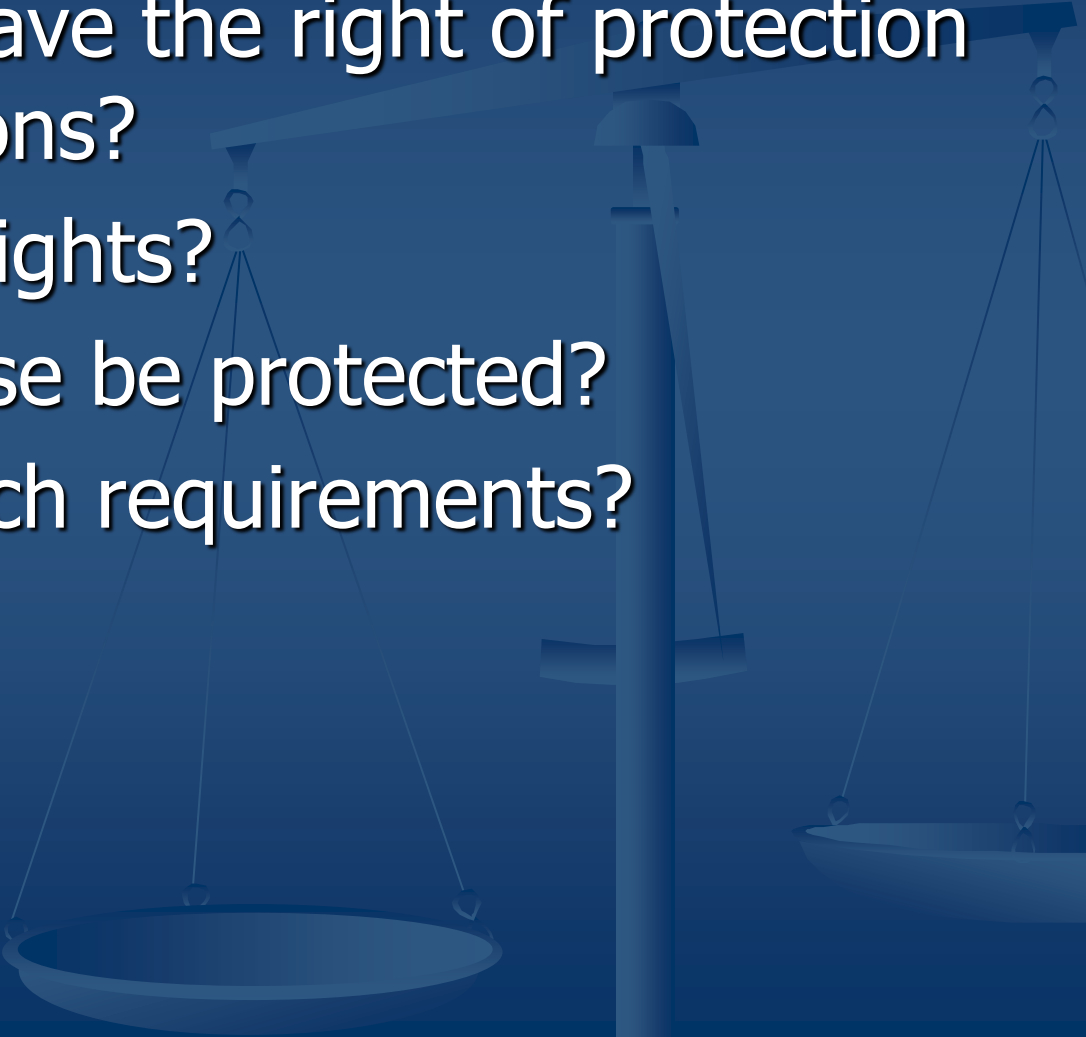


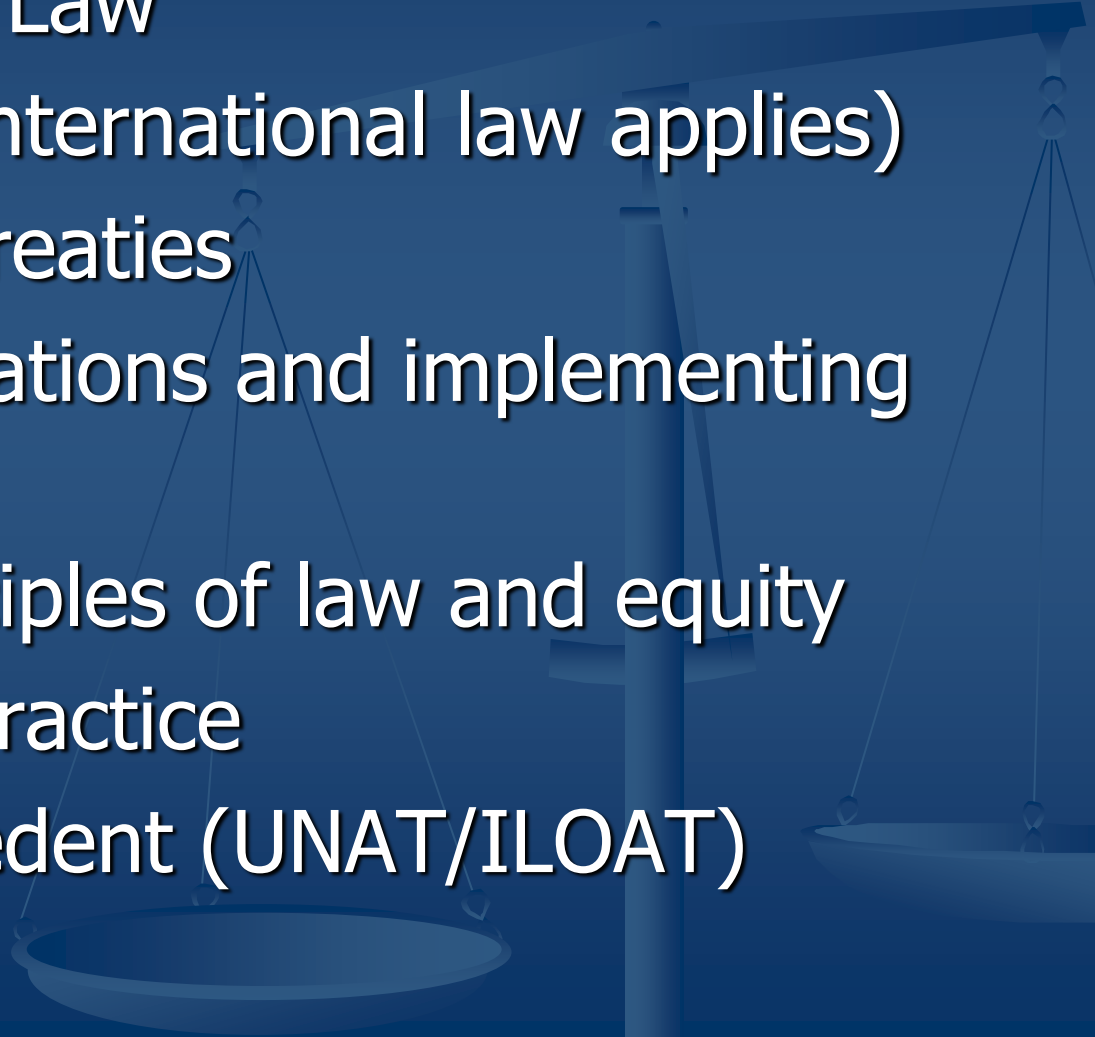
The background of the slide features a faint, stylized image of a pair of scales of justice. The scales are positioned on the right side, with the central pillar and the two pans hanging from a horizontal beam. The entire scene is rendered in a monochromatic blue color scheme, matching the background.

*Freedom of Association
and
Protection of Staff
Representatives*

Content

- Do Staff Reps have the right of protection for all their actions?
 - What are their rights?
 - How should these be protected?
 - Do IOs meet such requirements?
- 

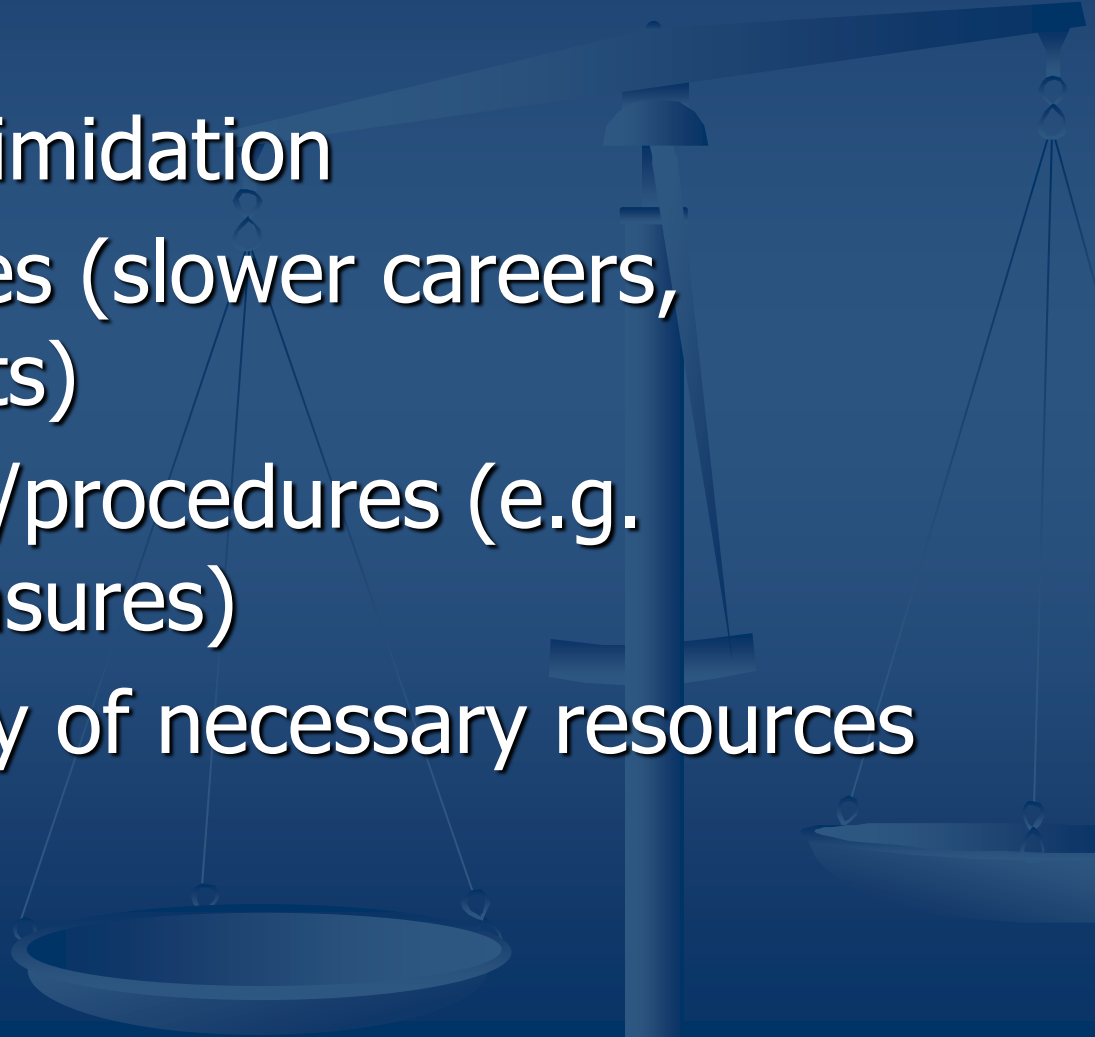
Sources of rights

- International Law
(customary International law applies)
 - Constituent treaties
 - Service regulations and implementing rules
 - General principles of law and equity
 - Established practice
 - Judicial precedent (UNAT/ILOAT)
- 
- A faint, stylized image of a scale of justice is visible in the background, positioned on the right side of the slide. The scale consists of a central vertical pillar supporting a horizontal beam with two pans hanging from it. The image is rendered in a light blue color, matching the overall theme of the slide.

Summary of ILO Convention Rights (C87/C151)

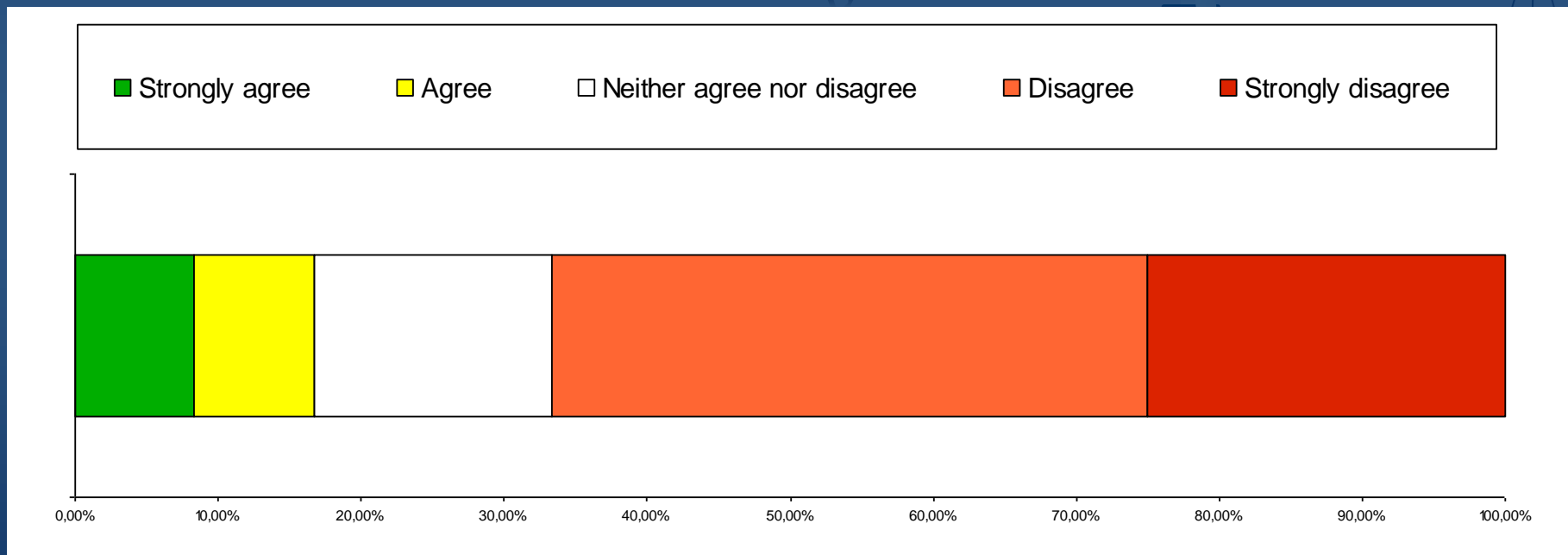
- Form/create/Join Staff Associations
 - including the right to draw up constitution and rules
 - Freedom for anti-union discrimination
 - Recognition
 - legal personality (including access to court)
 - Freedom from interference
 - complete independence from public authorities
 - cannot be dissolved/suspended
 - Freedom of action
 - No rules can impair basic rights
 - adequate resources
 - Freedom of expression - broad rights to express opinion of staff
 - Civil and political rights needed to ensure Freedom of Association
- 

How are Staff Reps rights infringed

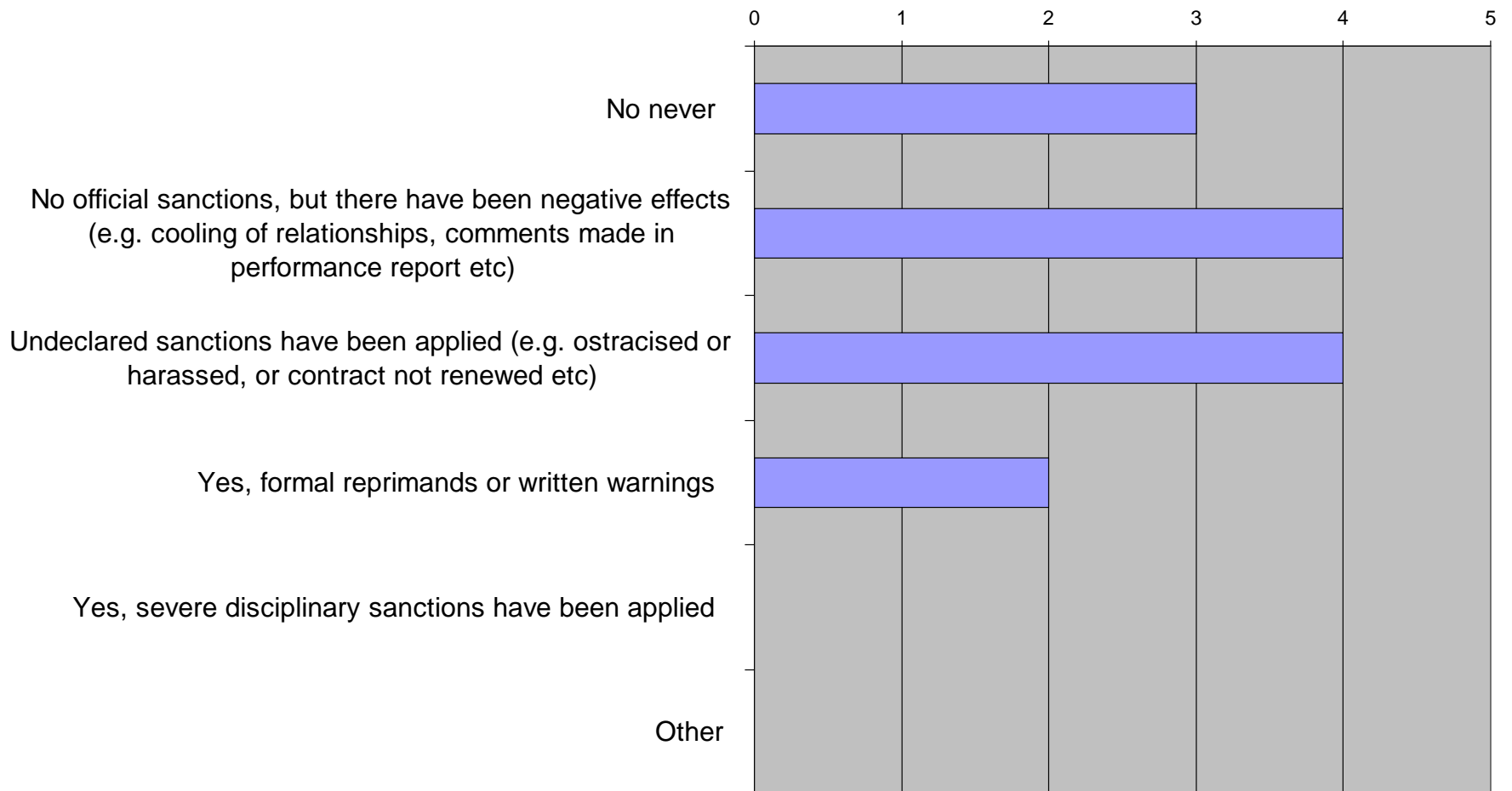
- Direct attacks
 - Harassment/Intimidation
 - Hidden measures (slower careers, abolition of posts)
 - Abuse of power/procedures (e.g. disciplinary measures)
 - Restriction/delay of necessary resources
- 

Feedback from Survey...

"In our organisation we have a culture in which Whistle blowers are encouraged to come forward and are protected from any negative consequences"



Have sanctions been taken against staff as the result of them expressing an opinion e.g. in a report or publication?



Is your staff association provided with adequate facilities to enable you to fulfil your function?

Yes 9

No 3

Are there any improper restrictions applied to your staff association?

Yes 2

No 9

Have any staff suffered negative consequences as a result of their membership of a union or staff association?

Yes 4

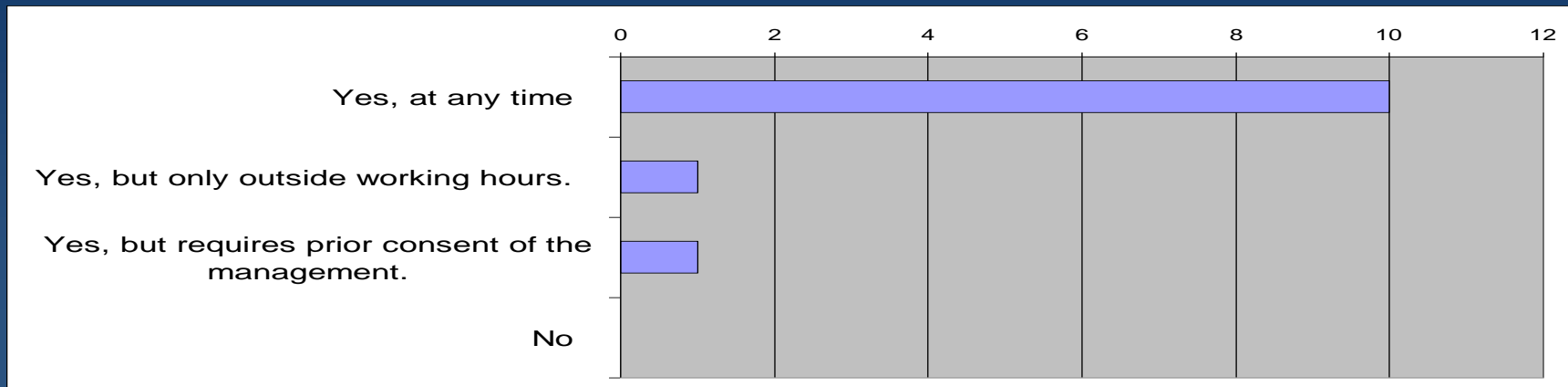
No 6

Have there been any negative actions taken against your staff association or any of its officials?

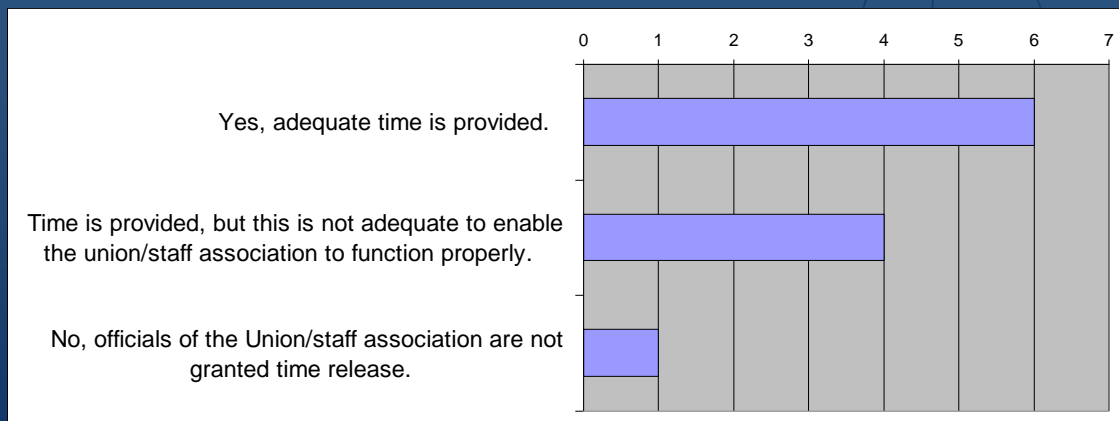
Yes. 4

No 7

Is your staff association permitted to hold meetings with staff on the organisations property? (e.g. General Assembly)

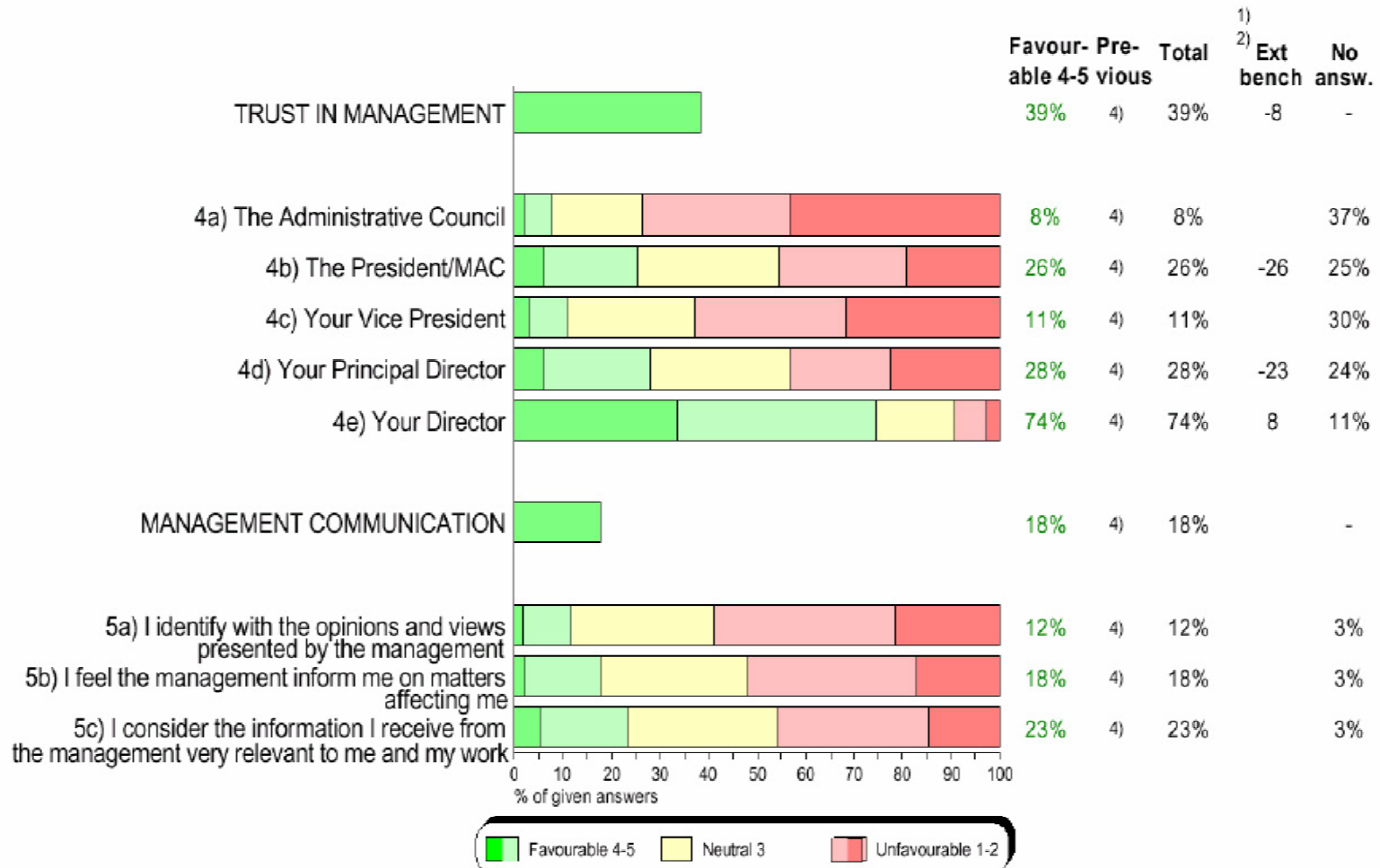


"Are officials of your staff association granted time release to undertake their functions? "



European Patent Office 2004

Trust in management (q. 4a-e), Management communication (q. 5a-c) EPO Total 2004

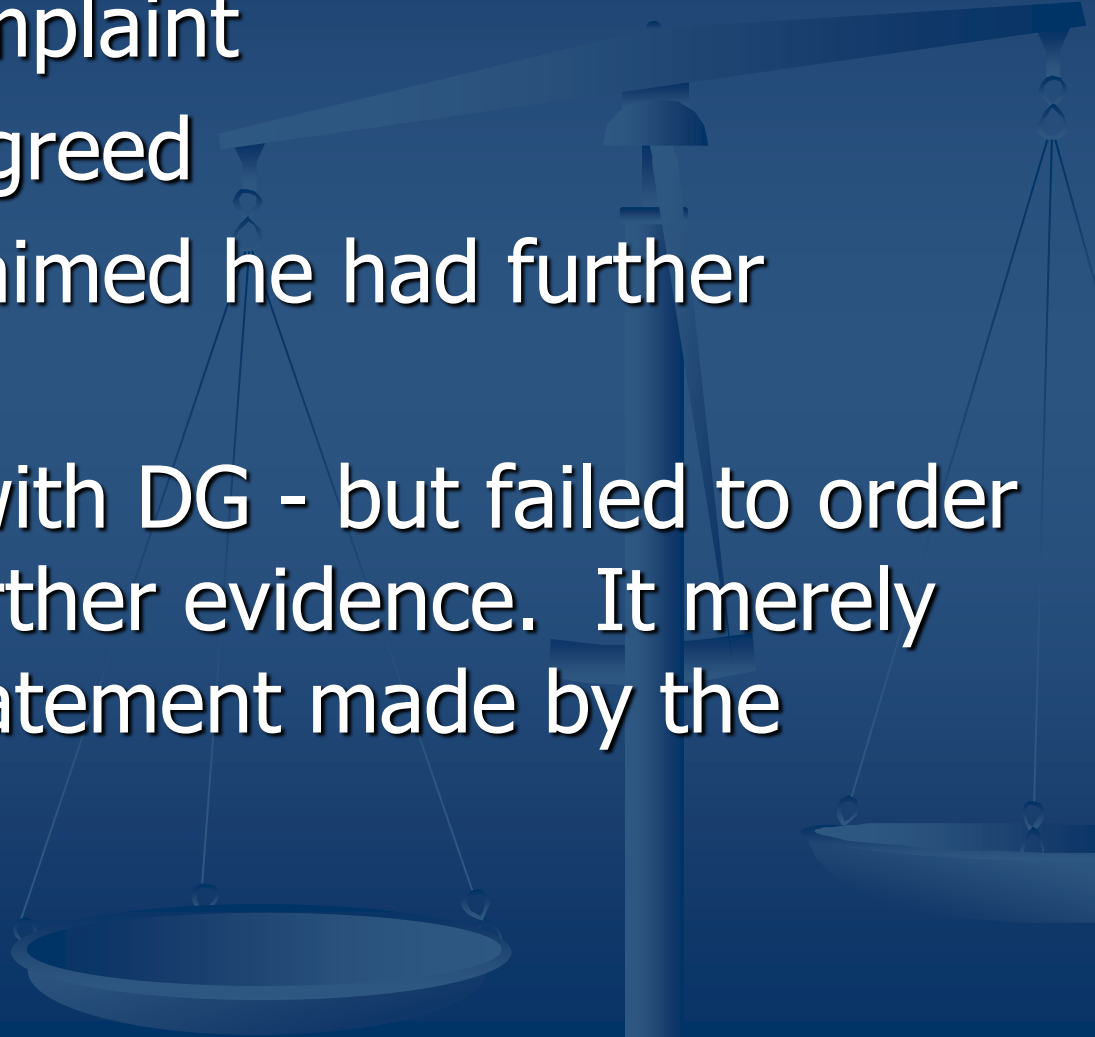


4) Missing value, no previous survey

1) Ext bench White Collar Europe
2) When comparing index, only questions with external benchmark are included

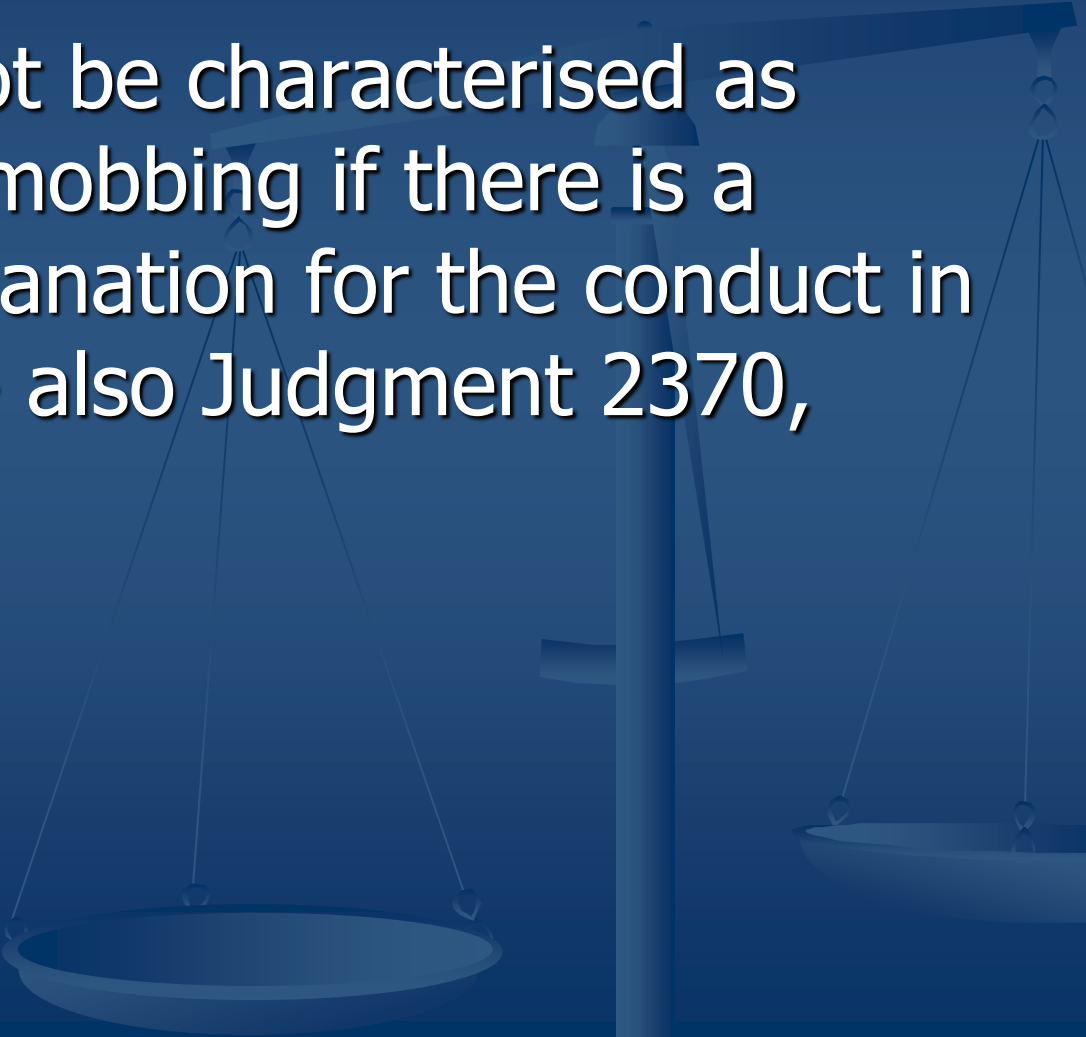
Bolocco-Mattavelli v WHO

ILOAT Judgement No. 2484

- Harassment complaint
 - Internal body agreed
 - DG refused - claimed he had further evidence.
 - ILOAT agreed with DG - but failed to order disclosure of further evidence. It merely relied on the statement made by the organisation.
- 

ILOAT 2524

"behaviour will not be characterised as harassment or mobbing if there is a reasonable explanation for the conduct in question. (see - also Judgment 2370, under 17.)"



Guilty until proven innocent

Mr. Doss Adly Doss v. WIPO / ILOAT Judgments 2288 and 2555

- The complainant was summarily dismissed in August 2002 from his post at WIPO for alleged misconduct concerning the use of his computer. It was alleged that the complainant had transmitted "pornographic" e-mails.
- ILOAT found that the WIPO Administration had committed a procedural error and ordered reinstatement.
- WIPO corrected the procedural error and without conducting any further investigation dismissed the applicant again.
- In the second appeal that ILOAT confirmed that decision of WIPO
- At no time has the "evidence" been submitted to independent examination. The ILOAT simply relied on the internal procedure.
- The internal procedure reversed the burden of proof, stating that the applicant had failed to demonstrate his innocence. Since access to key evidence was denied, there was no possibility for the complainant do so.

Enforcement of FoA rights

- Difficult because Union does not have true standing before "internal" judicial bodies
- Interpretation of FoA by ILOAT is limited



C87 Freedom of Association and Protection of the Right to Organise Convention, 1948



Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.
2. **The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.**

C87 Freedom of Association and Protection of the Right to Organise Convention, 1948

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

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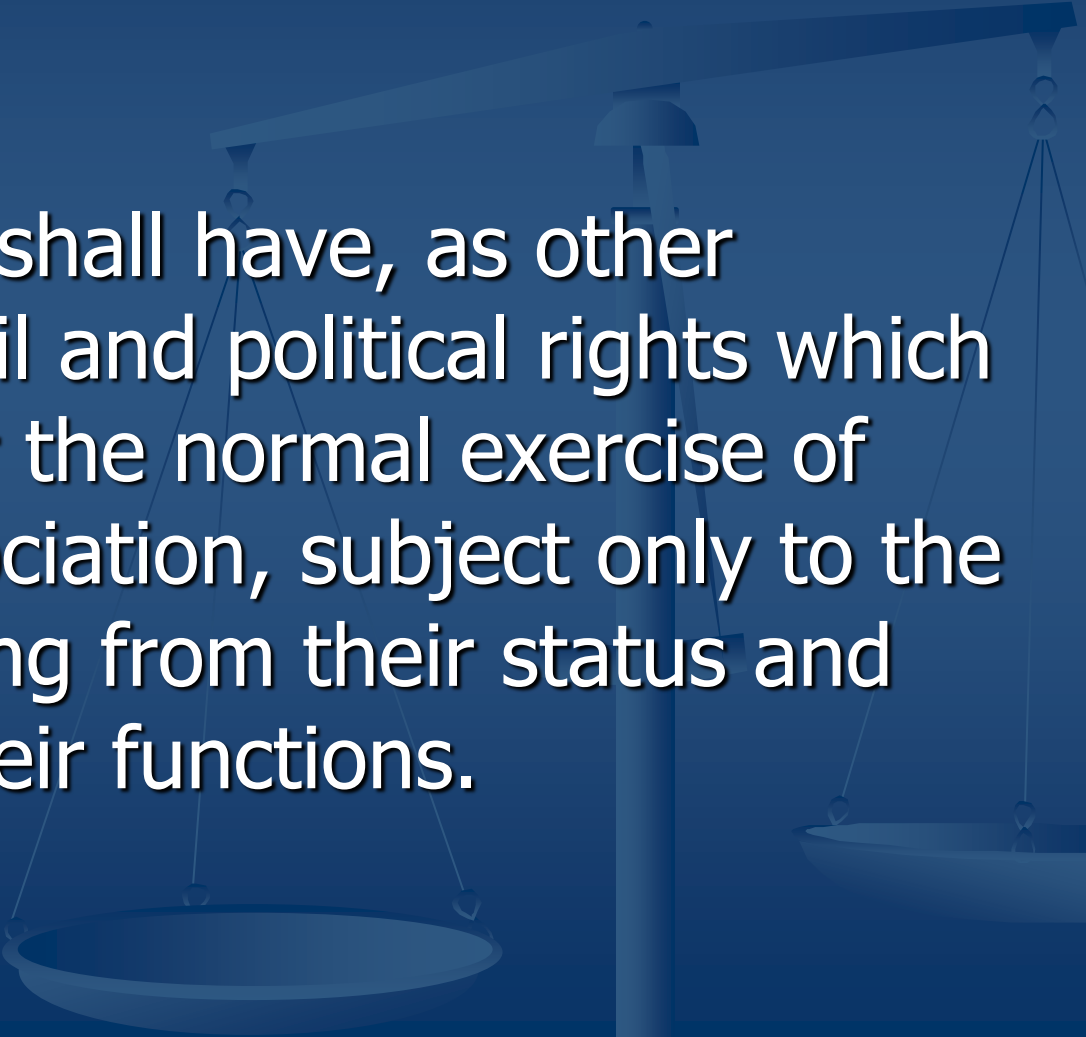
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ILO C151 cont ...

PART VI. CIVIL AND POLITICAL RIGHTS

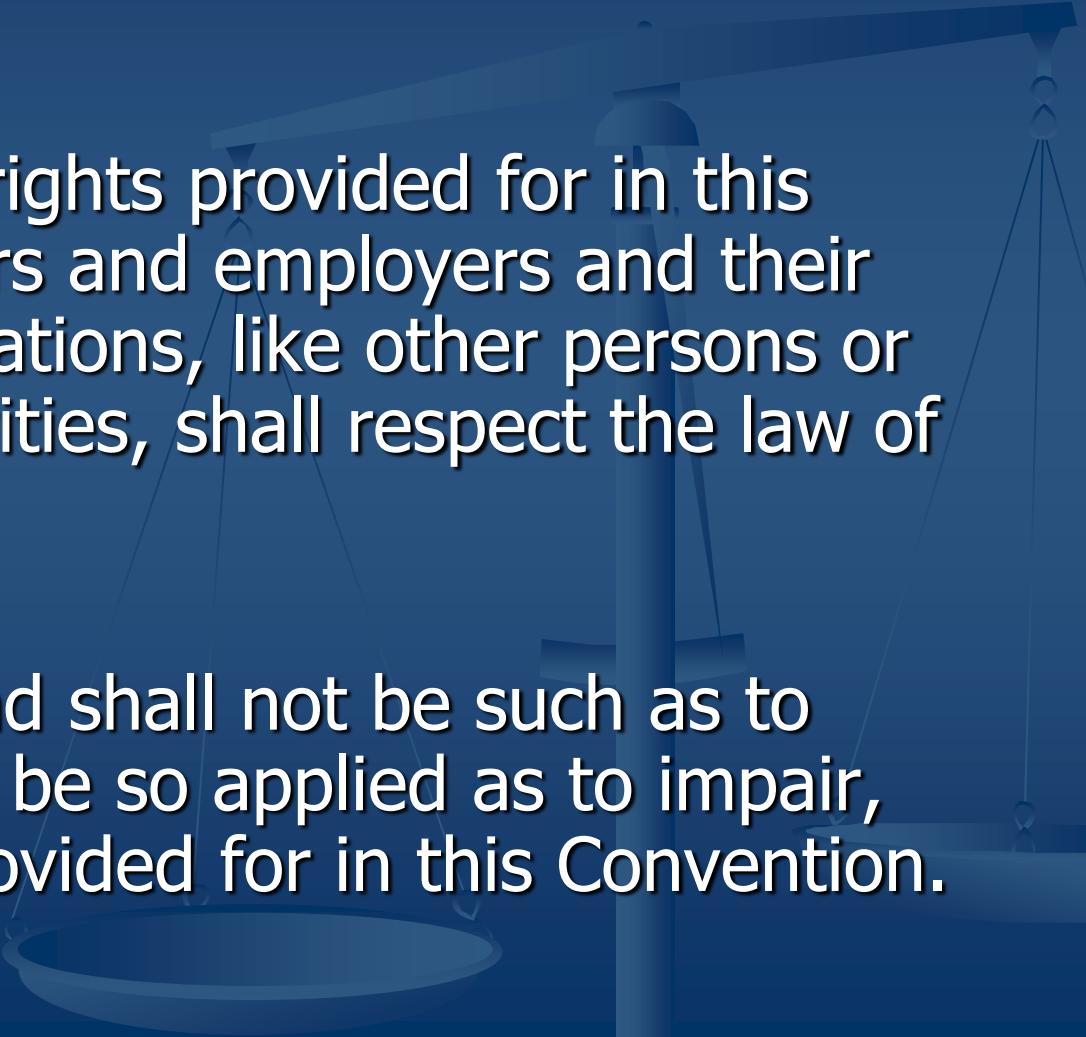
Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.



C87 Freedom of Association and Protection of the Right to Organise Convention, 1948

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
 2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.
- 

ILO C151

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 4

1. **Public employees** shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to:
 - (a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organisation;
 - (b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organisation or because of participation in the normal activities of such an organisation.

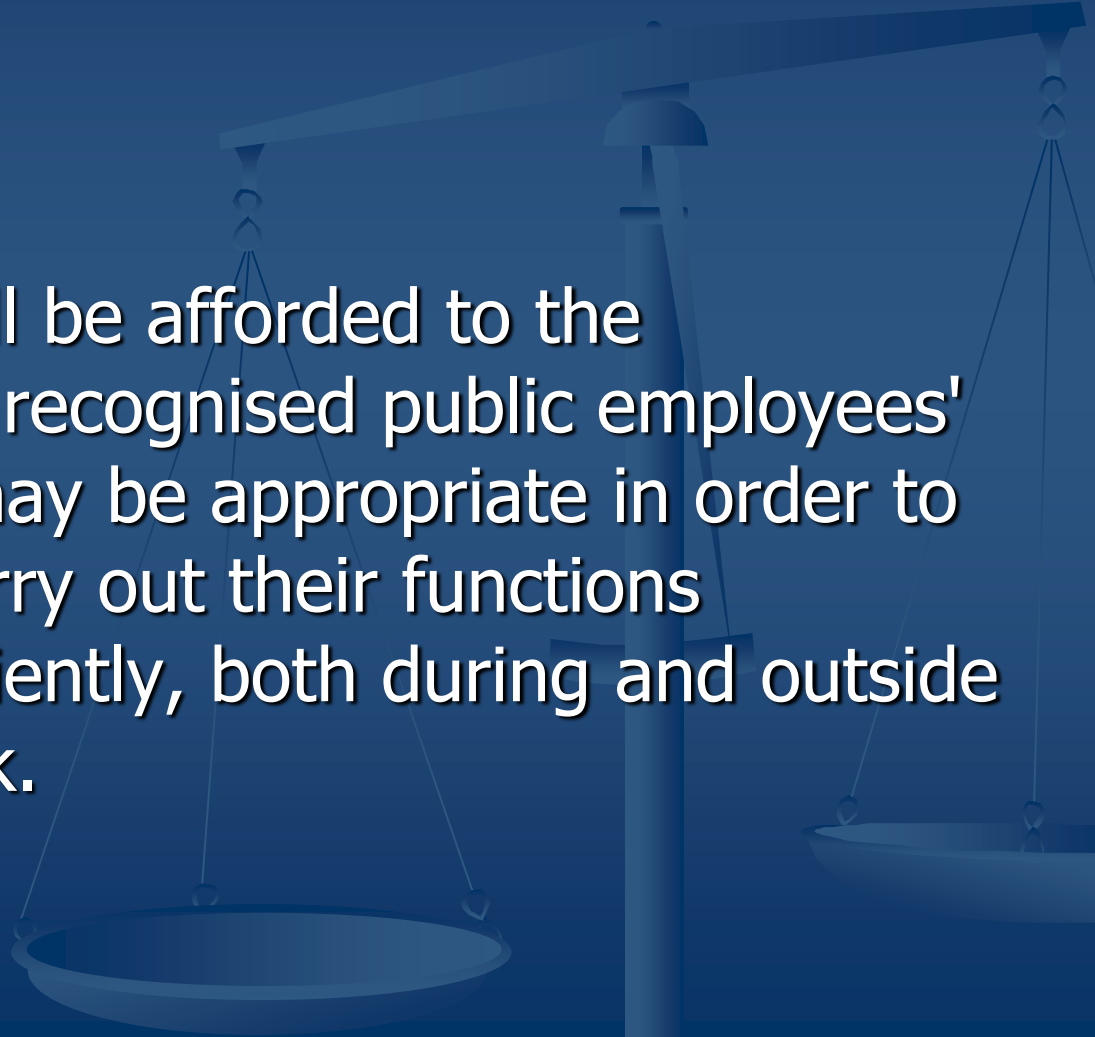
C151 cont...

Article 5

1. Public employees' organisations shall enjoy complete independence from public authorities.
2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.
3. In particular, acts which are designed to promote the establishment of public employees' organisations under the domination of a public authority, or to support public employees' organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

PART III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES' ORGANISATIONS

Article 6

1. Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.
- 

ILO C151 cont ...

PART VI. CIVIL AND POLITICAL RIGHTS

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

