



The right to strike in the public sector

Azerbaijan

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1. Legal basis

a) International level (relevant for the right to strike)

Azerbaijan has ratified:

- UN instruments¹: International Covenant on Economic, Social and Cultural Rights (ICESR, Article 8) and International Covenant on Civil and Political Rights (ICCPR, Article 22) on 13.08.1992.
- ILO instruments²:
 - Convention No. 87 on Freedom of Association and Protection of the Right to Organise (19.05.1992);
 - Convention No. 98 on the Right to Organise and to Collective Bargaining (19.05.1992);
 - Convention No. 154 on Collective Bargaining (12.08.1993).

b) European level

Azerbaijan has ratified:

- Article 6§4 (right to collective action) of the Revised European Social Charter of 1996 with no reservations (ratification: 2.09.2004, entry into force: 1.11.2004);³
- Article 11 (right to organise) of the European Convention of Human Rights (ratification and entry into force on 15.04.2002).⁴

c) National level

- Constitution⁵ Article 36 guarantees the right to strike with some restrictions as follows: *"I. Everyone has the right to strike, both individually and together with others. II. The right to strike for persons working based on employment contracts may be restricted only in cases prescribed by law. Soldiers and civilians employed in the Armed Forces of the Republic of Azerbaijan have no right to go on strike. (...)"*
- Applicable laws
 - In general: the Labour Code⁶, Article 270 (1) provides that *"Employees shall have the right to strike alone or together with other employees."*
 - Specific laws for certain sectors:
According to Section 20.1.7 of the Law on Civil Service, civil servants are prohibited from exercising the right to strike.⁷

Under the Labour Code, strikes shall be prohibited in certain service sectors (hospitals, power generation, water supply, telephone communications, air traffic control and fire-fighting facilities) which are vital to human health and safety (see section 4 below).⁸

- The case law is not rich at all. As indicated above, the right to strike is explicitly recognised by the Constitution and ordinary statutory law with some restrictions.

2. Who has the right to call a strike?

Under the Labour Code, the right of employees or trade unions to strike shall originate at the time a collective labour dispute has begun.⁹

The decision to go on strike shall be made at an employees' meeting or by the trade union (organization) as provided in Article 262 of the Labour Code.¹⁰ In this sense, according to Article 262 (2), issues of noncompliance or incomplete compliance with collective agreements and contracts and collective requests on other labour and social issues may be raised at the general meeting (conference) of employees or trade unions (union). A decision shall be made by a majority vote of the employees; trade unions shall reach decisions pursuant to their bylaws.¹¹

Pursuant to Article 274 of the Labour Code, the strike shall be led by a strike committee elected by a general meeting of employees or created by a decision of the trade union.¹²

3. Definition of strike

The Labour Code establishes the following types of strike:

- A strike is defined as a voluntary and temporary refusal of employees to perform their work in whole or in part in order to resolve their collective and individual labour disputes;¹³
- Warning strike. Under the Labour Code, at any stage of the resolution process, employees may organise a short (up to one hour) strike. The decision on such a warning strike shall be made pursuant to Article 262 of the Labour Code (see section 2 above).¹⁴

The Labour Code expressly provides for the above mentioned types of strike. There are no explicit legal provisions on other types of collective action such as solidarity strikes, sit-ins, go-slow actions, rotating strikes, work-to-rule, picketing, blockades, etc.

As for strikes which are not allowed, the Labour Code expressly stipulates that *strikes are not permitted for political purposes* except when employees try to reconcile the principles of the state's socioeconomic policy.¹⁵

4. Who can participate in a strike?

As mentioned above, Article 36 of the Constitution guarantees the right to strike of *everyone both individually and together with others* with some restrictions.¹⁶ The Labour Code provides that employees shall have the right to strike alone or together with other employees.¹⁷

Participation in a strike shall be voluntary. Individuals who oblige other persons by use or threat of force or using their material dependence to participate or not participate in a strike shall be held accountable for their actions pursuant to the law.¹⁸ It was reported¹⁹ that as the participation in a strike is voluntary, the employees may take part in the strike notwithstanding whether they are members of a trade union or not.

According to the Labour Code, the parties to a collective labour dispute shall be the employers and employees (labour collective or a part thereof) or trade unions. Trade unions shall have the right to strike, to gather together freely, as well as to take other public measures in the manner prescribed by legislation in order to settle collective labour disputes in a legal and just manner.²⁰

- **Limitations on the right to strike**

According to the Constitution, Article 36 *“The right to strike for persons working based on employment contracts may be restricted only in cases prescribed by law. Soldiers and civilians employed in the Armed Forces of the Republic of Azerbaijan have no right to go on strike.”*

The Labour Code provides for situations in which the right to strike is limited or prohibited, namely:

- The right of employees to strike may be limited or prohibited during martial law or a state of emergency, pursuant to the laws of the Republic of Azerbaijan.²¹
- Strikes are not permitted for political purposes except when employees try to reconcile the principles of the state’s socioeconomic policy.²²
- Employees of legislative authorities, relevant executive authorities [*Executive Office of the President, Cabinet of Ministers, ministries, state committees and other central executive authorities, as well as local executive authorities*], courts and law enforcement authorities may not go on strike.²³
- Condemned persons are prohibited from terminating labour activity and going on strike to settle labour disputes at institutions where they serve their sentence.²⁴

- **Essential services/activities**

Sectors where strikes are forbidden. Under the Labour Code, strikes shall be prohibited in certain service sectors (hospitals, power generation, water supply, telephone communications, air traffic control and fire-fighting facilities) which are vital to human health and safety.²⁵

With regard to the procedural requirements, the Labour Code stipulates that arbitration shall be mandatory in these sectors if the parties do not resolve an organisational labour dispute by

reconciliation.²⁶ An obligatory arbitration panel shall be created by the relevant authority and shall function on the basis of regulations drafted by the same authority. The number of obligatory arbitration panel members shall be determined in consultation with the parties to the dispute, shall be no less than five persons, and shall be an odd number. The relevant authority shall ensure that the obligatory arbitration panel looks into the dispute promptly and decisively. The decisions of the obligatory arbitration panel shall be binding on all parties to the dispute and shall be implemented immediately.²⁷

Minimum services. According to the Labour Code, with the *consent of the parties*, minimum necessary work (services) should be ensured *if a strike continues for a long time and there is a threat to the safety and health of people, or if there is a strike at entities vital to the interests of society as a whole.*²⁸ In the absence of an agreement, the minimum necessary work (services) may be provided by the relevant authorities [Ministries, state committees, companies, departments and local executive authorities] or municipalities.²⁹

The “*essential services in the strict sense of the term*” have been defined by the International Labour Organisation as those services “the interruption of which would endanger the life, personal safety or health of the whole or part of the population.”³⁰

- **Restrictions related to public servants**

As mentioned above, under the Labour Code, employees of legislative authorities, relevant executive authorities, courts, or law enforcement authorities may not go on strike.³¹ Moreover, under Article 20.1.7 of the Law on Public Service, the public servant is prohibited to take part in strikes and other actions violating the works of the state authority.³²

International bodies such as the ILO CEACR³³ and the ECSR³⁴ have found that the above mentioned restrictions applicable to public servants are in violation of international legal standards (see section 7 below).

5. Procedural requirements

- The right of employees or trade unions to strike shall originate at the time a collective labour dispute has begun.³⁵
- If the parties agreed to resolve the collective labour dispute through peaceful means, a strike shall be resorted to only if the dispute cannot be resolved through those means.³⁶
- If the employer needlessly delays peaceful resolution or fails to fulfill an agreement reached through peaceful means, then the labour collective [the employees] and trade unions shall have the right to strike.³⁷
- Prior to conducting a strike, the decision to go on strike shall be made at an employees' meeting or by the trade union (organisation).³⁸
- As for balloting mechanism, according to the Labour Code a decision shall be made by a *majority vote of the employees*; trade unions shall reach decisions pursuant to their bylaws.³⁹
- As for notice periods, at least *ten days before a strike*, the labour collective or the trade union must inform the employer in writing of the decision to go on strike.⁴⁰ In case of a *warning strike*, the employer must be notified in writing at least three days before the said strike.⁴¹
- The strike shall be led by a strike committee elected by a general meeting (conference) or created by a decision of the trade union. The strike committee shall have the right to call for a general meeting (conference) of employees, to receive information from the employer on items of interest to employees, and to use the knowledge of experts in order to arrive at an opinion on controversial subjects.⁴²
- The strike committee shall perform, for example, the following duties⁴³: discuss with the employer, take measures to prevent actions that might interfere with the employer or with employees who decide not to strike, provide security for the entity's property or manage the strike fund.⁴⁴
- If the strike ends, is declared illegal, or is banned due to martial law or a state of emergency, the powers of the strike committee shall be revoked by a decision of the general meeting (conference) of the employees, or by a decision of the related trade union body.⁴⁵
- During a strike, the parties must continue discussions on the collective labour dispute.⁴⁶
- The employer, the authorities, municipal agencies, the strike committee, and the trade union must do everything in their power during the strike to maintain social order, protect the property of the entity and of private individuals, and ensure uninterrupted operation of equipment and machinery to avoid endangering human life, safety and health.⁴⁷
- With the consent of the parties, minimum necessary work (services) should be ensured *if a strike continues for a long time and there is a threat to the safety and health of people, or if there is a strike at entities vital to the interests of society as a whole*.⁴⁸

- In the absence of an agreement, the minimum necessary work (services) may be provided by the relevant authorities [Ministries, state committees, companies, departments and local executive authorities] or municipalities.⁴⁹
- *Lockout.* An employer may declare a lockout by giving a written notice of the entity's shutdown to his/her employees, trade unions and to the relevant executive authorities at least 10 days in advance in the following situations⁵⁰:
 - if the demands of the employees submitted to the employer are beyond his production, economic, financial and other capabilities;
 - if there is a strike in violation of the rules;
 - if there is undeniable evidence that an employer (employers) who is a competitor or other individual directed the employees to go on a strike.
- Before declaring a lockout, the employer must hold discussions with employees and trade unions, and every opportunity must be taken to stop the strike and reach an agreement.⁵¹
- Upon the request of employees, the court shall decide if a lockout is legal and declared in accordance with the law. If the court declares the lockout illegal, employees must be compensated for damages suffered and the employer shall be held liable for the violation of the law on lockout.⁵²

6. Legal consequences of participating in lawful/unlawful strikes

- Participation in lawful strike:
 - According to the Labour Code, in relation to strikes resulting from a collective labour dispute, no employees may be fired, nor may the jobs at the enterprise (affiliate, representation) or workplace where the collective labour dispute arose be cut, abolished, or reorganised.⁵³
 - An employer may pay full or partial wages to striking employees for the duration of the strike.⁵⁴ Refusal to pay wages for that period may not be grounds for a dispute.⁵⁵
 - Workers who refuse to participate in a strike shall have the right to continue to work. If this is not possible, the employees' wages shall be paid at the rate paid when an employee is idle for reasons beyond his control.⁵⁶
 - Strikers shall have the right to freely assemble, discuss the progress of negotiations, hold meetings and hold other public events at workplaces or near the enterprise provided that they do not obstruct employees who continue working.⁵⁷
 - Except in situations described in Article 275 of the Labour Code (when minimum necessary work (services) need to be provided, see section 4 above) striking employees may not be replaced by others.⁵⁸
 - In case the employer accepts the strikers' demands, or the parties reach an agreement to resolve the dispute, or the employees refuse to continue the strike, the strike shall be considered ended.⁵⁹ If a strike is illegal or is prohibited under martial law or a state of emergency, it must stop immediately.⁶⁰
- Participation in unlawful strike:
 - Strikes declared and carried out in violation of the provisions of the Labour Code shall be considered illegal.⁶¹
 - Upon a petition filed by the employer, the court of the district (city) where the strike committee is located shall investigate whether a strike is illegal.⁶²
 - In case of a court decision declaring a strike illegal, the employees must end the strike and resume work the day after the court decision is submitted to the body heading the strike.⁶³
 - As determined by the court, striking parties shall be responsible for damage to the employer as a result of their decision to continue a strike that has been declared illegal.⁶⁴
 - Other employers who fund the strike are liable for all damage to the employer, including lost profit.⁶⁵

- Issues related to financial liability shall be handled pursuant to civil law.⁶⁶ An employer may take disciplinary action against those employees who continue a strike that has been declared illegal.⁶⁷
- In order to fund a strike, employee groups or trade unions may create a strike fund that shall remain in effect during the strike.⁶⁸ Damage to an employer due to continuation of an illegal strike may be paid from the strike fund on the basis of a court ruling.⁶⁹

7. Case law of international/European bodies

International Labour Organisation's The Committee of Experts on the Application of Conventions and Recommendations (CEACR)⁷⁰

Direct Request CEACR – adopted 2019, published 109th ILC session (2020)⁷¹

The Committee recalled that it had previously noted that pursuant to section 20.1.7 of the Law on Civil Service, all civil servants were prohibited from exercising the right to strike. Recalling that States may restrict or prohibit the right to strike in the public service only for public servants exercising authority in the name of the State, the Committee had requested the Government to list specific categories of civil servants covered by the Law on Civil Service whose right to strike is thus prohibited.

The Committee noted the Government's reference to the legislative provision outlining the definition of the term "state body" and of its units as well as to section 20.1.7 of the Law on Civil Service. The Committee understood the Government's reply to mean that all civil servants are indeed prohibited from exercising the right to strike. The Committee noted section 14.2 of the Law on Civil Service which provides for the notion of a civil servant exercising authority in the name of the State, and recalled that only this category of civil servants may be deprived of the right to strike.

The Committee therefore requested the Government to take the necessary measures to amend section 20.1.7 of the Law on Civil Service accordingly and to provide all information on the measures taken or envisaged in this respect.

Observation (CEACR) - adopted 2013, published 103rd ILC session (2014)⁷²

The Committee had previously requested the Government to amend section 281 of the Labour Code and section 233 of the Criminal Code so as to ensure that air and railway transport sector workers could exercise the right to strike. The Committee noted that in its report the Government explained that section 281 of the Labour Code prohibits the right to strike only in the air and railway control services and that strikes are otherwise allowed in these sectors. The Government further explained that section 233 of the Criminal Code does not restrict the right of workers to strike but criminalises violations of the public order during strikes.

The Committee welcomed the clarifications provided by the Government.

- **European Social Charter**

Conclusions on Article 6§4 of the European Committee of Social Rights (ECSR)⁷³

With regard to the *entitlement to take collective action*, the Committee previously noted that pursuant to Article 262 of the Labour Code a decision to strike shall be made at an employees' meeting or by a trade union. Pursuant to Article 274 of the Labour Code the strike shall be led by a strike committee elected by a general meeting or created by a decision of the trade union. The Committee asked for confirmation that the decision to call a strike is not solely reserved to a trade union. It also recalled that to be in conformity with the Charter the decision to call a strike can be taken by a trade union only,

provided that forming a trade union is not subject to excessive formalities. The Committee found the information provided in the report to be unclear and again requested information on who has the right to call a strike.

With regard to *restrictions on the right to strike*, the Committee previously found that the restrictions on the right to strike for employees working in essential services did not comply with the conditions established by Article G of the Charter and therefore the situation was not in conformity.

The Committee recalled that Article 281 of the Labour Code prohibits strikes in the following sectors: hospitals, energy providers, water supply services, telephone service providers, air traffic control and fire-fighting facilities.

The Committee recalled also that restricting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health. However, simply banning strikes even in essential sectors – particularly when they are extensively defined, is not deemed proportionate to the specific requirements of each sector, but providing for the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4.

Further the Committee found that the restrictions on the right to strike for public officials did not comply with the conditions established by Article G of the Charter. The Committee recalled that employees of legislative authorities, relevant executive authorities, courts and law enforcement authorities may not go on strike. It also noted that pursuant to Article 20(1)(7) of the Law on Public Service, a public servant is prohibited from taking part in strikes. The report provided no information on the situation, therefore the Committee reiterated its previous conclusion.

The Committee referred to the general question on the right of members of the police to strike.

The Committee concluded that the situation in Azerbaijan was not in conformity with Article 6§4 of the Charter on the grounds that: restrictions on the right to strike for employees in essential services are too extensive and go beyond the limits permitted by Article G of the Charter; and the prohibition on the right to strike for public servants does not comply with the conditions established by Article G of the Charter.

Conclusions 2014 - Azerbaijan - Article 6§4⁷⁴

With regard to the *entitlement to call a collective action*, the Committee asked in its previous conclusion (Conclusions 2010) for information on who has the right to call a strike, in particular, it wished to know whether this right is reserved to a trade union. It noted from Article 262 of the Labour Code that the decision to strike shall be made at an employees' meeting or by a trade union. Pursuant to Article 274 of the Labour Code the strike shall be led by a strike committee elected by a general meeting or created by a decision of the trade union. The Committee understood from both these articles that the decision to call a strike is not only taken by a trade union and asked the next report to confirm its understanding. It also recalled that to be in line with the Charter the decision to call a strike can be taken by a trade union only, provided that forming a trade union is not subject to excessive formalities.

With regard to *restrictions related to essential services*, the Committee noted that according to Article 281 of the Labour Code, strikes are prohibited in the following sectors: hospitals, energy providers,

water supply services, telephone service providers, air traffic control and fire-fighting facilities. In this respect, in its previous conclusion the Committee asked for information on the extent of the restrictions on the right to strike in these sectors, and whether there is a total ban on all strikes in the sectors listed above. The Committee noted from the answer provided in the report that there is indeed a total ban on all strikes in these sectors justified by the need to protect people's health and safety.

Under Article 6§4 the right to strike may be restricted provided that any restriction satisfies the conditions laid down in Article G which provides that restrictions on the rights guaranteed by the Charter that are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals.

The Committee recalled also that restricting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health. However, simply banning strikes even in essential sectors – particularly when they are extensively defined, is not deemed proportionate to the specific requirements of each sector, but providing for the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4.

The Committee considered that even if the restriction to the right to strike is prescribed by law (in this case the Labour Code) and serves a legitimate purpose, namely public health and safety, it considers that a total ban on the right to strike in the above mentioned sectors is not proportionate to the aim pursued by the law and therefore necessary in a democratic society. It held however that the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4. On this basis the Committee concluded that the situation is not in conformity.

Regarding *restrictions related to public officials*, the Committee noted that according to Article 270(8) of the Labour Code, employees of legislative authorities, relevant executive authorities, courts and law enforcement authorities may not go on strike. It also noted that pursuant to Article 20(1)(7) of the Law on Public Service, a public servant is prohibited from taking part in strikes. The Committee recalled that under Article G, these restrictions should be limited to public officials whose duties and functions, given their nature or level of responsibility, are directly related to national security, general interest, etc. The Committee considered that a total ban on the right to strike for public officials goes beyond the restrictions permitted by Article G of the Charter. The Committee therefore concluded that the situation is not in conformity with Article 6§4 of the Charter. In view of the precedent paragraphs, the Committee concluded that the situation is not in conformity with Article 6§4 of the Charter on the ground that the restrictions to the right to strike for employees working in essential services and public officials go beyond those permitted by Article G of the Charter.

8. Bibliography

- The Constitution of Azerbaijan, available at: <https://en.president.az/azerbaijan/constitution>
- The Labour Code, available at: <http://sosial.gov.az/en/labour-code> (in English) and at: <file:///C:/Users/user/Downloads/12.az.pdf> (in Azeri)
- ITUC Survey of Violations of Trade Union Rights, Azerbaijan (no recent data available!): <https://survey.ituc-csi.org/azerbaijan.html?lang=en#tabs-1>
- ILO CEACR, Observations and Direct Requests concerning the implementation of ILO Convention No. 87, in respect of Azerbaijan, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20010:::NO:::>
- 11th National Report on the implementation of the European Social Charter submitted by Azerbaijan, 3 April 2018, p.38, available at: <https://rm.coe.int/11th-report-from-azerbaijan/16807b6c7d>
- 7th National Report on the implementation of the European Social Charter submitted by Azerbaijan, 4 February 2014, pp. 31-35, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048ac8a>
- ECSR, Conclusions 2018 on Article 6§4, Azerbaijan available at: <http://hudoc.esc.coe.int/eng/?i=2018/def/AZE/6/4/EN>
- ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>
- UN CESCR, Concluding observations on the third periodic report of Azerbaijan adopted by the Committee at its fiftieth session (29 April-17 May 2013) re. Article 8 of the UN CESCR, page 4, available at: <file:///C:/Users/user/Downloads/G1344314.pdf>
- Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 853-863, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf
- ETUI Report « Better defending and promoting trade union rights in the public sector », No. 105, 2008, pp. 79-81, available at: <https://www.etui.org/Publications2/Reports/Better-defending-and-promoting-trade-union-rights-in-the-public-sector2>

References

- ¹ Status of ratification by Azerbaijan of UN Treaties available at: <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=en>, consulted on 24.10.2019
- ² Status of ratification by Azerbaijan of ILO Conventions available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102556, consulted 24.10.2019
- ³ Status of ratification by Azerbaijan of the Revised European Social Charter available at : https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=jPYjkVEL and <https://www.coe.int/en/web/european-social-charter/signatures-ratifications>, consulted on 25.10.2019
- ⁴ Status of ECHR ratifications available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL, consulted on 25.10.2019
- ⁵ The Constitution of Azerbaijan was adopted on 12 November 1995 and amended subsequently, available at: <https://en.president.az/azerbaijan/constitution>
- ⁶ The Labour Code of Azerbaijan, approved by the Law of the Azerbaijan Republic of 1 February 1999, No. 618-IQ, see in particular Chapter 43, 'Right to strike in order to resolve collective labour disputes', available at: <http://sosial.gov.az/en/labour-code> (in English) and at: <file:///C:/Users/user/Downloads/12.az.pdf> (in Azeri)
- ⁷ Direct Request (CEACR) adopted 2019, published 109th ILC session (2020), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNT_RY_NAME,P11110_COMMENT_YEAR:4019693,102556,Azerbaijan,2019
- ⁸ Article 281 of the Labour Code
- ⁹ Article 270 (2) of the Labour Code
- ¹⁰ Article 271 of the Labour Code
- ¹¹ Article 262 (2) of the Labour Code
- ¹² Article 274 (1) of the Labour Code; see also ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>
- ¹³ Point 17 of Article 3 'Basic Terms and Definitions Used in the Labour Code' of the Labour Code
- ¹⁴ Article 273 of the Labour Code
- ¹⁵ Article 280 (2) of the Labour Code
- ¹⁶ Article 36 of the Constitution, available at: <https://en.president.az/azerbaijan/constitution>
- ¹⁷ Article 270 (1) of the Labour Code
- ¹⁸ Article 270 (4) of the Labour Code ; see also ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>
- ¹⁹ See 7th National Report on the implementation of the European Social Charter submitted by Azerbaijan, 4 February 2014, p. 35, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048ac8a>
- ²⁰ Article 261 (1) and (2) of the Labour Code
- ²¹ Article 280 (1) of the Labour Code
- ²² Article 280 (2) of the Labour Code
- ²³ Article 270 (8) of the Labour Code
- ²⁴ Article 270 (9) of the Labour Code
- ²⁵ Article 281 (1) of the Labour Code
- ²⁶ Article 281 (1) of the Labour Code
- ²⁷ Article 281 (2) of the labour Code
- ²⁸ Article 275 (3) of the Labour Code
- ²⁹ Article 275 (4) of the Labour Code
- ³⁰ See Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 836 - 841 – ILO CFA has defined and listed as “essential services in the strict sense of the term” where the right to strike may be subject to restrictions or even prohibitions, the following: the hospital sector, electricity services, water supply services, the telephone service, the police and armed forces, the fire-fighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools, air traffic control. The ILO CFA has stressed that compensatory guarantees should be provided to workers in the event of prohibition of strikes in essential services, see paras. 853 - 863; See also ETUI Report 105, pp. 79-81
- ³¹ Article 270 (8) of the Labour Code
- ³² See 7th National Report on the implementation of the European Social Charter submitted by Azerbaijan, 4 February 2014, pp. 33-34, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048ac8a>
- ³³ Direct Request (CEACR) adopted 2019, published 109th ILC session (2020), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNT_RY_NAME,P11110_COMMENT_YEAR:4019693,102556,Azerbaijan,2019
- ³⁴ ECSR, Conclusions 2018 on Article 6§4, Azerbaijan available at: <http://hudoc.esc.coe.int/eng/?i=2018/def/AZE/6/4/EN>
- ³⁵ Article 270 (2) of the Labour Code
- ³⁶ Article 270 (3) of the Labour Code
- ³⁷ Article 270 (3) of the Labour Code
- ³⁸ Article 271 of the Labour Code
- ³⁹ Article 262 (2) of the Labour Code
- ⁴⁰ Article 272 of the Labour Code
- ⁴¹ Article 273 of the Labour Code
- ⁴² Article 274 (1) and (2) of the Labour Code
- ⁴³ Article 274 (4) of the Labour Code
- ⁴⁴ ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>
- ⁴⁵ Article 274 (5) of the Labour Code; see also 7th National Report on the implementation of the ESC, p. 35, available at: []

⁴⁶ Article 275 (1) of the Labour Code
⁴⁷ Article 275 (2) of the Labour Code
⁴⁸ Article 275 (3) of the Labour Code
⁴⁹ Article 275 (4) of the Labour Code
⁵⁰ Article 284 (1) of the Labour Code; the Labour Code contains a *Note* stating that: “When a labour dispute begins, if the employer is incapable of meeting the demands of the striking employees on production, economic or financial ground, such a strike shall be deemed without basis and illegally motivated in order to infringe on the rights and interests of the employer, and a lockout may be declared to shut down the entity.”
⁵¹ Article 284 (2) of the Labour Code
⁵² Article 285 (1) and (2) of the Labour Code; see also ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>
⁵³ Article 270 (7) of the Labour Code
⁵⁴ Article 283 of the Labour Code; It was reported that this provision applies to all workers participating in a strike whether they are members or not of a trade union, see ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN> and the 7th National Report on the implementation of the European Social Charter submitted by Azerbaijan, 4 February 2014, p. 35, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048ac8a>
⁵⁵ Article 283 of the Labour Code
⁵⁶ Article 276 (1) of the Labour Code
⁵⁷ Article 277 of the Labour Code
⁵⁸ Article 270 (5) of the Labour Code
⁵⁹ Article 279 (1) of the Labour Code
⁶⁰ Article 279 (2) of the Labour Code
⁶¹ Article 282 (1) of the Labour Code
⁶² Article 282 (2) of the Labour Code
⁶³ Article 282 (3) of the Labour Code
⁶⁴ Article 286 (1) of the Labour Code
⁶⁵ Article 286 (2) of the Labour Code
⁶⁶ Article 286 (3) of the Labour Code
⁶⁷ Article 286 (4) of the Labour Code
⁶⁸ Article 278 (1) of the Labour Code
⁶⁹ Article 278 (5) of the Labour Code
⁷⁰ See Observations and Direct Requests of CEACR concerning the implementation of ILO Convention No. 87, in respect of Azerbaijan, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20010:::NO:::>
⁷¹ Direct Request (CEACR) adopted 2019, published 109th ILC session (2020), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNT_RY_NAME,P11110_COMMENT_YEAR:4019693,102556,Azerbaijan,2019
⁷² Observation (CEACR) adopted 2013, published 103rd ILC session (2014), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNT_RY_NAME,P11110_COMMENT_YEAR:3143223,102556,Azerbaijan,2013
⁷³ ECSR, Conclusions 2018 on Article 6§4, Azerbaijan available at: <http://hudoc.esc.coe.int/eng/?i=2018/def/AZE/6/4/EN>
⁷⁴ ECSR, Conclusions 2014 on Article 6§4, Azerbaijan, available at: <http://hudoc.esc.coe.int/eng/?i=2014/def/AZE/6/4/EN>