



The right to strike in the public sector

Greece

Contents

1. Legal basis
 2. Who has the right to call a strike?
 3. Definition of strike
 4. Who may participate in a strike?
 5. Procedural requirements
 6. Legal consequences of participating in a strike
 7. Case law of international/European bodies
 8. Recent developments
 9. Bibliography
- Notes

This factsheet reflects the situation in October 2018 and was elaborated by Evdokia Maria Liakopoulou (independent expert) and reviewed by EPSU/ETUI; no comments were received from the Greek EPSU affiliates.

1. Legal basis

International level

Greece has ratified the following instruments of the United Nations¹ and Conventions of the International Labour Organisation².

United Nations instruments

International Covenant on Economic, Social and Cultural Rights

(ICESCR, Article 8) (on 16 May 1985)

International Covenant on Civil and Political Rights

(ICCPR, Article 22) (on 5 May 1997)

International Labour Organisation Conventions

87: Freedom of Association and Protection of the Right to Organise

(Legislative Decree No. 4204/1961, Official Government Gazette, FEK 174/A'/19.09.1961)

98: Right to Organise and to Bargain Collectively

(Legislative Decree No. 4205/1961, Official Government Gazette, FEK 174/A'/19.09.1961)

151: Labour Relations (Public Service)

(Law No. 2405/1996, Official Government Gazette, FEK 101/A'/04.06.1996)

154: Promotion of Collective Bargaining

(Law No. 2403/1996, Official Government Gazette, FEK 99/A'/04.06.1996)

European level

Greece has ratified:

Article 11 (the right to freedom of assembly and association) of the European Convention on Human Rights

(first ratification on 28 March 1953 (Law No. 2329/1953, Official Government Gazette, FEK 68/A'/1953), second ratification on 28 November 1974 (Legislative Decree No. 53/1974, Official Government Gazette, FEK 256/A'/1974))

Article 6(4) of the European Social Charter (Revised)

(ratification of Law No. 4359/2016, Official Government Gazette, FEK 5/A'/20.01.2016) except for the employers' right to collective action, in particular the right to lockouts³

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints

(Law No. 2595/1998, Official Government Gazette, FEK 63/A'/24.03.1998)

National level

The Constitution of Greece⁴

The right to strike is recognised not only in connection with freedom of association, but also independently.

In particular:

- Article 23(1) stipulates that: ‘The State shall adopt due measures safeguarding the freedom to unionise and the unhindered exercise of related rights against any infringement thereon within the limits of the law’;
- Article 23(2) provides that ‘Strike [action] constitutes a right to be exercised by lawfully established trade unions in order to protect and promote the financial and the general labour interests of working people’.
It also stipulates that:
‘Strikes of any nature whatsoever are prohibited in the case of **judicial functionaries and those serving in the security corps**. The right to strike shall be subject to the specific limitations of the law regulating this right in the case of **public servants and employees of local government agencies and of public law legal persons as well as in the case of the employees of all types of enterprises of a public nature or of public benefit, the operation of which is of vital importance in serving the basic needs of the society as a whole**. These limitations may not be carried to the point of abolishing the right to strike or hindering the lawful exercise thereof.’⁵

Applicable laws

- Law No. 1264/1982 concerning the democratisation of the trade union movement and the protection of workers’ trade union freedoms,⁶ in particular Articles 19(1) and (2) to 22, 30 and 30a), in implementation of Article 23(2) of the Constitution. It provides a detailed regulatory framework for the exercise of the right to take collective action;⁷
- Law No. 2224/1994 regulating issues of labour, trade union rights, health and safety of workers and organisational matters of the Ministry of Labour and the legal entities under its supervision and other provisions,⁸ particularly Article 2 which designates the emergency staff to be provided during strikes in entities, enterprises or utilities as referred to in Article 19(2) of Law No. 1264/1982;
- Law No. 1876/1990 concerning free collective bargaining and other provisions⁹ setting forth the procedures for dispute resolution and enumerating the issues that collective agreements may regulate;
- **Particularly for public sector:** Articles 19(2), 20(2) and 21 of Law No. 1264/1982 regulate the right to strike of those working for the State or in enterprises of public benefit, but under private law. Articles 30 and 30a of Law No. 1264/1982 extend this provision to public servants and employees of the police force respectively.

Law No. 2683/1999 ratifying the Code of Civil Servants,¹⁰ particularly Article 46(3) according to which a: 'Strike constitutes a right for civil servants, exercised through their trade unions, as a means to safeguard and promote their financial, labour, trade union, social and insurance interests and as a manifestation of solidarity to other employees for the same purposes. The right to strike is exercised pursuant to the provisions of the law regulating it.'

- **Other provisions:** Article 281 of the Civil Code regarding the abuse of rights (good faith principle), connected with the exercise of the right to strike in order to declare a strike lawful or unlawful.¹¹ Article 247(1) of the Greek Penal Code provides for fines or sanctions for public servants who decide collectively (minimum of three persons) to call a strike or threaten to call a strike. Fines and sanctions may also arise when members of the executive council of a trade union or civil servants' association call a strike (Article 247(3)).¹²
- Case law examines the lawfulness of industrial action. The Supreme Court has accepted in effect the principle of lawfulness of industrial action and extended it until a decision in the last instance is issued.¹³
- Collective agreements can regulate matters concerning **emergency staff** and **minimum services**.¹⁴

2. Who has the right to call a strike?

According to Article 23(2) of the Greek Constitution, strike action constitutes a right to be exercised by lawfully established trade unions, which are those that have been granted legal status and entered in the special Register of Trade Unions of the Court of First Instance. Therefore, strikes that are called by individuals, or by non-organised groups of employees, are unlawful.¹⁵ The law differentiates between primary, second-level and third-level organisations.¹⁶

Law No. 1264/1982 lays down the procedural requirements concerning the exercise of the right to strike.¹⁷ As regards primary trade unions, any strike action requires the prior approval of the general assembly. Exceptionally, in case of brief, non-repeated stoppages of a few hours, a decision of the primary union's executive council is sufficient, unless otherwise determined by a decision or the statute of the union. The same applies to primary trade unions of broader geographic regions or of national coverage. With regard to associations of persons, a strike may also be initiated by a decision adopted by secret ballot of the majority of the employees. In the case of an enterprise whose staff is not unionised, the decision may be taken by the region's labour centre. Within second-level and third-level organisations, the executive council may call a strike, unless otherwise determined by the statute.¹⁸ A strike to express solidarity with employees of another enterprise of the same multinational company may be called only by a third-level trade union organisation.¹⁹

As regards **civil servants**, a strike may be called only by second-level and third-level trade union organisations, following a prior decision of the general assembly, or by primary trade union organisations of broader geographic regions or national coverage.²⁰

3. Definition of strike

The Greek Constitution provides for a general definition of the right to strike. A strike is understood to be the collective cessation of work by employees, decided by trade union organisations, with the aim of exerting pressure on the employer as a means of securing an improvement in working conditions or simply defending the status quo, particularly with a view to the protection and advancement of their financial, labour, trade union and insurance interests.²¹ For it to fall within the scope of a constitutionally protected strike, collective abstention from work must be carried out by a dependent workforce. If the abstention is realised by self-employed persons, such as lawyers, then it is merely an abstention from their duties and does not constitute a strike.²²

Pursuant to Article 23(2) of the Constitution and Article 19(1) of Law No. 1264/1982, strikes in Greece must pursue a legitimate aim, that is, the preservation and promotion of workers' economic, labour, trade union and social insurance interests.²³ It has been argued that economic and general labour interests cover all specific types of interests that are the result of the productive, economic and social dimension of individuals as workers.²⁴ The exercise of the right to strike is independent of the conduct of collective bargaining with a view to concluding a collective agreement. Trade unions may undertake industrial action even in respect of matters that fall outside the scope of collective agreements.²⁵

In general, the form and the practice of strike action are both subject to control under Article 281 of the Civil Code (prohibition of the abuse of rights) and are always determined on a case-by-case basis.²⁶

- **Solidarity strikes:** Under Law No. 1264/1982, the right to strike is exercised as a manifestation of solidarity in relation to employees' economic, labour, trade union and social insurance objectives.²⁷
- **International disputes:** A solidarity strike may also be called in support of workers in different undertakings or establishments belonging to the same multinational firm as the workers coming out in sympathy, but only on condition that: (i) the outcome of the strike by the latter workers directly affects the economic or labour interests of the former; (ii) the two groups of workers are both employed by enterprises controlled by the same multinational organisation; and (iii) the solidarity action in Greece is approved in advance by the national labour confederation to which the Greek workers are affiliated through their union.²⁸
- **Political strikes:** In the narrow sense, political strikes directed against the State that do not involve employment-related demands (economic, labour, trade union and social insurance interests) are unlawful,²⁹ except in extremely rare cases where they are called to defend constitutional institutions and national independence. In the broad sense, a political strike is lawful when it is a joint strike, combining political and industrial motives.³⁰ As far as social insurance interests are concerned, Article 22(5) of the Constitution stipulates that: 'The State shall care for the social security of the working people, as specified by law.'

Therefore, strikes arising out of social insurance claims that can be satisfied only by the State, and not by the employer, can have only a purely political character, and are thus tolerated as a protest strike.³¹

- **Warning strikes** are acceptable in the Greek legal order under certain circumstances, especially where the employer refuses to negotiate, has no intention to engage in serious dialogue, displays bad faith, etc..³²
- **Sit-down or go-slow ('white') strikes:** There are legal discussions among scholars pertaining to the specific nature of this type of strike, as strikers remain at their posts and continue working but reduce their output or refuse to perform some of their duties. However, most legal scholars support the view that such strikes are lawful. The employer is exempted from paying wages for the work that is not provided.³³
- The **occupation of premises** may be contrary to fundamental constitutional provisions, such as Article 17 of the Constitution (protection of private property), or constitute a criminal offence under the provisions of the Criminal Code, such as Article 334 (breach of domestic peace).³⁴
- **Partial and rotating/circular strikes:** A partial strike consists in the abstention from work of small groups of employees occupying key positions or of some interdependent production units, immobilising the whole enterprise. The culmination of such a strike is the rotating strike, where only some employees or production units abstain from work at any given time, each group taking its turn.
- **'Wildcat strikes':** Pursuant to Article 23(2) of the Constitution, 'wildcat strikes' are illegal. However, some discussions emerge among legal scholars as to whether an ad hoc association, which usually initiates a 'wildcat strike' and does not possess the legal status of a trade union, as required by Article 1(3) of Law No. 1264/1982, may call a strike. An ad hoc association is an association or union of persons that is established in a different and less strict manner than a trade union. The prevailing opinion supports the view that 'wildcat strikes' are unlawful. The Greek courts have accepted the *ex nunc* legitimisation of such strikes but rejected the retroactive effect of their legality.³⁵
- **Other types of lawful strikes** include: general strikes concerning all the enterprises in the country, strikes in certain branches or enterprises, partial strikes, work-to-rule, administrative strikes where teachers perform only their teaching duties and not their administrative ones, protest strikes staged by employees not to exert pressure with a view to promoting their specific claims but to express their opposition to certain measures which the employer or the Government proposes to take.³⁶
- **Lockouts** are prohibited.³⁷

4. Who may participate in a strike?

General principle: All individual workers/employees, whether national or foreign, who are in a dependent employment relationship may participate in a strike, regardless of whether they are members of a trade union. This includes individuals on a fixed-term or open-ended contract, part-time or rotation workers, workers on a works contract and pensioners in dependent work.³⁸

Specific cases

- In the case of self-employed persons, an abstention from work does not fall within the scope of Article 23(2) of the Constitution and therefore does not constitute a strike. However, the self-employed do enjoy the freedom of association and, therefore, all rights associated with that freedom, pursuant to Article 23(1) of the Constitution.³⁹
- With regard to '**essential services**', strikes are permitted by employees who are party to employment relationships in private law with the State, local authorities, state law entities, public companies or public utilities whose operation is of vital importance in meeting the basic needs of society as a whole.⁴⁰

Public companies/utilities whose functioning is of vital importance in satisfying the essential needs of the community are those engaged in:

- (a) the provision of healthcare services, such as hospitals or other healthcare institutions;
 - (b) the purification and distribution of water;
 - (c) the generation and distribution of electricity or fuel gas;
 - (d) the production or refining of crude oil;
 - (e) the transport of persons and goods by land, sea or air;
 - (f) telecommunications and postal services, radio and television;
 - (g) the drainage of sewage and waste water, removal of effluents, and collection and disposal of refuse;
 - (h) the loading, unloading and storage of merchandise imports;
 - (i) the services of the Bank of Greece, civil aviation and all types of services or parts of services responsible for the settlement and payment of wages to public-sector staff.⁴¹
- As regards **public servants**, strikes are permitted by salaried civilian state employees – with the exception of employees of EYP (National Intelligence Service) – permanent or fixed-term employees of local authorities, institutes of higher education and church or other bodies governed by public law, as well as employees holding permanent jobs whose employment relationship is governed by private law in the public sector.⁴²

Restrictions⁴³

- Strikes are prohibited in the case of members of the **judiciary** and persons serving in the **security corps**, including **military personnel** and **civil servants of the armed forces** and the **Hellenic Coast Guard**.⁴⁴

- In relation to strikes in '**essential services**' and the **public sector**, the exhaustion of all means of direct negotiations between the disputing parties and the guarantee of a minimum level of service are required (see next section).

5. Procedural requirements

Statutory provisions:

- Recognised trade unions have the competence to exercise the right to strike (see section 2).
- Whereas before a quorum of one third of a union's members had to attend a general assembly where a vote for strike action is on the agenda, the Greek Parliament adopted, under pressure of the Troika of the European Central Bank, European Union and International Monetary Fund, a law now requiring a quorum of 50%.
- **Notification**

In the private sector, the workers' trade union has an obligation to give the employer at least 24 hours' notice of the intention to strike, by any appropriate means.

In the event of a strike in '**essential services**', the law provides that, prior to any strike action, the trade union organisation calling the strike is obliged to invite the employer to discuss the relevant issues. The invitation must be made in writing and notified to the employer, the Ministry of Labour and the supervising Ministry.⁴⁵ A strike may not take place until four full days have elapsed since the relevant bodies have been notified, and no new demands may be introduced once this notification has been made.⁴⁶ In addition, the appointment of emergency staff and a guaranteed minimum level of service are required.

A strike involving **public servants** must be notified in advance to the employer, the Ministry of Labour and the supervising Ministry. A strike may not take place until four full days have elapsed since the relevant bodies have been notified in writing concerning the demands and the reasons for them.⁴⁷ In addition, the relevant bodies may request 'public dialogue' before or during the strike.⁴⁸

In **both cases** (strikes in 'essential services' and in the public sector), the employer may also request social dialogue following the announcement of the strike demands or the strike decision, or where he/she considers that the industrial peace within the enterprise is at great risk of being disturbed.⁴⁹

Public dialogue, which does not involve suspension of the right to strike, takes place within 48 hours of the invitation being issued and is chaired by a mediator.⁵⁰

Emergency staff and minimum level of service: In the private sector, a trade union calling a strike must ensure that emergency employees remain available in sufficient numbers to guarantee the safety of plant and equipment and prevent disasters or accidents for the duration of the strike.⁵¹ As regards 'essential services', sufficient staff must also be made available to ensure a minimum level of service, i.e. one that aims at satisfying the basic needs of the community.⁵² The emergency staff to be made available is determined by special agreement between the employer and the most representative trade union (as defined by law) at the works level.

With regard to 'essential services', this agreement may also state the specific needs of society which are to be met and the consequences should the agreement be violated. Agreements are drawn up annually and remain in force for a year. They must be submitted to the Ministry of Labour within five days of being signed by the parties concerned.⁵³

Dispute resolution: In situations where the negotiations fail to produce a resolution acceptable to both parties, provision is made for conciliation and mediation procedures and for voluntary arbitration in stages.⁵⁴ The terms for requesting mediation and arbitration and the entire procedure are stipulated by the relevant clauses in collective agreements or, where such clauses have not been agreed, can be regulated by a unanimous agreement of the negotiating parties. In the case of absence of such agreements, the provisions of Law No. 1876/1990 apply.⁵⁵ Arbitration is the last resort for settling disputes, and it may be applied at any stage of negotiation either by joint agreement of the parties or unilaterally.⁵⁶ A second level of arbitration is possible and must take place within 10 days of the arbitral award being issued.⁵⁷

Industrial peace

- **Peace clauses:** The obligation to maintain industrial peace must be respected as long as a collective agreement is in force, but only in relation to the matters regulated in that agreement.⁵⁸
- **Suspension of the right to strike:** In the case of an appeal to arbitration, the law provides for a 10-day period of suspension of the right to strike from the day of the submission of the arbitration appeal.⁵⁹
- The parties to the conflict may agree upon a **waiting period** during the negotiations, mediation and arbitration. This waiting period concerns only the issues that are under negotiation.⁶⁰

Discussions are frequently held among scholars about the position of the *ultima ratio* (or last resort) principle in the Greek legal system, mainly after the adoption of the Law on collective bargaining (Law No. 1876/1990) which provides for dispute resolution based on the principle of collective autonomy. This is because, in particular, during collective bargaining, mediation and arbitration, trade unions continue to enjoy the right to strike, unless this right has been waived under an earlier collective agreement.⁶¹

For proponents of the *ultima ratio* principle, Law No. 1876/1990 underlines the importance of the negotiating efforts of the parties before the strike commences. Furthermore, Greek courts have already developed and applied the principles of proportionality and *ultima ratio* when assessing the lawfulness of a strike.⁶² A court can indeed declare a strike 'abusive', and therefore illegal, after weighing the opposing interests of workers and employers, assessing the broad implications of the strike and applying the proportionality principle.

In 2008, the Parliament passed legal amendments aimed at accelerating appeals hearings on whether or not strikes are legal. According to the new law on legality of strikes, when a court declares a strike illegal and this decision is appealed, the head of the Court of Appeals or the President of the Court of Appeal Governing Board must fix the hearing day for the appeal within 48 hours and designate the judges' panel. The verdict must be taken within three days of the hearing. The new law has been criticised, since the criteria for declaring a strike illegal were already too vague, and accelerating the procedure would give even more rights to the judges while restricting trade union autonomy.

6. Legal consequences of participating in a strike

Participation in a lawful strike

Suspension of the employment contract: The suspension of the employment relationship involves both parties (employer and employee) and, in particular, concerns the performance of the main job duties.⁶³

Any period spent on strike is regarded as a period of actual service and is taken into account in calculating the compensation to be paid as the result of a dismissal, seniority benefit, entitlement to promotion, entitlement to leave, etc. Given that the employee's contract is suspended, so is the employee's relationship with the social security institution and, consequently, insurance contributions are not paid.⁶⁴ However, it is possible to provide for the payment of social security contributions during a strike by means of a collective agreement.⁶⁵

The recruitment of strike-breakers is prohibited.⁶⁶ However, the employer maintains the right to make adjustments in order to cover vacancies, such as the appointment of non-striking workers who usually perform other tasks or the transfer of staff to other branches or offices, or even the working of overtime, etc.⁶⁷

Disciplinary sanctions and dismissal: It is prohibited to dismiss an employee for participating in a strike.⁶⁸ Non-participation in a lawful strike may lead to disciplinary sanctions being imposed by the trade union, if so determined in the statute.

Greek courts accept the **employer's right to refuse the services of strikers or non-strikers** and not to pay their wages, based on the principle of objective inability.⁶⁹ It is considered that this substitutes the prohibition of lockouts.⁷⁰

Participation in an unlawful strike

If the material and formal conditions that are required for the lawful exercise of the right to strike are not met, a strike may be declared unlawful. A strike may likewise be declared unlawful if the right to strike is abused.⁷¹

Civil action: The employer may file a civil action to declare a strike abusive or unlawful or to seek the termination of an unlawful strike and the prohibition of any future strike action. Civil courts have jurisdiction, and a strike may be declared illegal only by a judge.⁷²

Stopping industrial action under the interim measures procedures is prohibited, and the unlawfulness of a strike may be declared in ordinary proceedings. However, in emergency cases, the law provides for the rapid completion of the regular procedure and the shortening of various deadlines so that such cases can be heard within five days of the employer's petition being filed.⁷³

Breach of the duty to provide work: Participation in an unlawful strike does not suspend the employment contract: it is regarded as the non-performance of the employment contract and results in an unjustified absence from work. Therefore, the striker is not entitled to receive any wages or payment, and the strike period is not taken into account.⁷⁴

Termination of the employment relationship: Participation in an unlawful strike, regardless of any relevant court decision, may result in the termination of an open-ended employment contract or constitute a reasonable ground for the termination of a fixed-term contract. However, the decision on termination of employment must not be abusive and must take into consideration all relevant circumstances, e.g. the participant's belief that the strike was lawful (good faith principle), the duration of the strike, etc. The employment contract of a participant in a strike that was not called by a lawfully established trade union is automatically dissolved, at no cost to the employer.⁷⁵ As regards trade union leaders, participation in an unlawful strike does not affect statutory protection against dismissal, unless they continue to participate in a strike that has been declared unlawful by a court decision.⁷⁶

Disciplinary sanctions: Participation in an unlawful strike and other culpable action during such a strike may constitute a disciplinary offence, if determined as such in the works rules. Disciplinary sanctions may be imposed only on individuals and according to the degree of responsibility of the striker; collective punishment is prohibited.⁷⁷

Civil and penal liability: A trade union may be held liable for damages caused to the employer by the unlawful strike, whereas the employee may be held liable for damages caused by his or her absence from work. Criminal penalties may be imposed for certain types of unlawful strike, such as, for instance, the creation of an impediment to the proper functioning of public utilities,⁷⁸ the coercion of third parties under threat or violence to participate in or to call a strike⁷⁹ or the disturbance of domestic peace.⁸⁰

7. Case law of international/European bodies on standing violations

International Labour Organisation

Committee of Freedom of Association (CFA)

Cases concerning allegations of violations of freedom of association arising from the issuance of a civil mobilisation order and requisition measures to end a lawful strike:

- Case No. 2838 – Report No. 362, *International Transport Workers' Federation (ITF), Pan-Hellenic Seamen's Federation (PNO) and Greek General Confederation of Labour (GSEE)*,⁸¹
- Case No. 2506 – Report No. 346, *International Transport Workers' Federation (ITF), Pan-Hellenic Seamen's Federation (PNO) and Greek General Confederation of Labour (GSEE)*,⁸²
- Case No. 2212 – Report No. 330, *The Pan-Hellenic Seamen's Federation (PNO) supported by the International Confederation of Free Trade Unions (ICFTU) and the International Transport Workers' Federation (ITF)*,⁸³ and
- Case No. 1021 – Report No. 214 *The Air Traffic Controllers' Association of Greece (EEEKE)*:⁸⁴

According to the complainants, over the past 32 years, successive Greek Governments, without exhausting proportionally milder measures, have often resorted to civil mobilisation measures that, under threat of penalties, compelled striking workers to terminate their strike action and return to work. According to the Government, the decision to proceed to the civil mobilisation had as its exclusive objective and result the protection of the public interest, for which the Constitution allowed the requisition of personal services. In its conclusions regarding these cases, the Committee considered that it is undesirable to resort to mobilisation or requisition measures except for the purpose of maintaining essential services in circumstances of the utmost gravity. It also called on the Government to ensure that any restrictions placed on the right to strike are in conformity with freedom of association principles and Convention No. 87, ratified by Greece.

For other (older) cases on the right to strike see the website of the CFA.⁸⁵

Committee of Experts on the Application of Conventions and Recommendations (CEACR):

Limitations to the right to strike: In its Direct Requests and Observations regarding the application of Convention No. 87, the Committee requested the Government to indicate the manner in which, in practice, **minimum services** are established in public enterprises whose operation is essential to satisfy the vital needs of the population.⁸⁶ The Committee noted the information provided by the Government concerning new Law No. 2224/1994 which is intended to permit the social partners to participate in the designation of the necessary personnel and in the supervision of matters relating to the security staff to be maintained through the conclusion of collective agreements.⁸⁷ Following the entry of Greece to the financial assistance mechanism, the Committee noted a number of concerns regarding legislative changes that affected the exercise of the right to strike. Specifically, the Committee requested the Government to provide clarification as to whether workers may engage in industrial action despite an arbitration award on wages where the parties are at a deadlock in respect of negotiations on non-wage matters.⁸⁸

Financing of trade unions: Financial independence and freedom from any dependence on or interference from the Government have been constant demands of the trade unions. It was observed that the former system for financing the trade union movement which made trade unions financially dependent on a public body was incompatible with the principles of freedom of association, since it permitted interference by the authorities in the financial management of trade unions.⁸⁹

Maritime sector: For several years, the Committee has raised the question of the freedom of association of seafarers who are excluded from Laws No. 1264/1982 and No. 1915/1990.⁹⁰ The renewed use of civil mobilisation orders to curtail industrial action in the maritime sector was also observed by the CEACR. The Committee requested the Government to take the necessary steps to ensure that the civil mobilisation order is no longer in force so that seafarers may have recourse to industrial action when they arrive at an impasse in negotiations and to ensure that, in the future, the decision to suspend a strike on the grounds of national security or public health is made by an independent body.⁹¹

Council of Europe

Complaints under Article 6(4) of the Charter:

Complaint No. 3/1999 *European Federation of Employees in Public Services (EUROFEDOP) v Greece*

This complaint relates to the right to organise and the right to bargain collectively. It is alleged that the **armed forces** are denied these rights. The Committee noted that Greece has not accepted to be bound by Articles 5 and 6 of the Charter. Therefore, the complaint was declared inadmissible.⁹²

ECSR Conclusions

Acting in the context of the examination of the reports submitted under Article 22 – reports on certain non-accepted provisions – concerning Articles 5 and 6 of the 1961 Charter, the ECSR can and has requested information concerning the state of application of the rights contained in Articles 5 and 6 from those countries which, for various reasons, have not ratified them. According to the information contained in the reports, it appears that the delay in the acceptance of Articles 5 and 6 by Greece is due to restrictions on the right to join trade unions, the prohibition of lockouts and the possibility of arbitration being imposed.⁹³ In the meantime Greece has ratified the Revised Social Charter, including articles 5 and 6 but first ECSR Conclusions are awaited.

8. Recent developments

Impact of austerity measures

No changes were made to the institutional framework for strikes and social conflicts during the Greek financial crisis. However, the fact that a major reason for the Greek economic crisis was related to public expenses had serious implications for the public sector. In practice, the most frequent cases of strikes in Greece concern measures taken in the context of the economic crisis, mainly pertaining to the reduced salaries of public servants and employees of public companies and the drastic decrease of personnel in the public sector under the 'employment reserve' programme.⁹⁴

In the context of the third bailout programme, the Greek Government accepted the assistance of an international Committee of Experts, composed of representatives of international organisations, including the ILO, in order to review the existing framework of the labour market and then modernise the arrangements for collective bargaining, trade union action and mass redundancies.⁹⁵ In its report, the group of independent experts recommends that the present arrangements on the right to strike do not need to be changed and notes that there is no need to introduce lockouts.⁹⁶

Nevertheless, the Supplemental Memorandum of Understanding (SMoU), based on 140 prior actions that Greece must fulfil, contains further requirements for the alignment of the industrial action framework with best international practice. Specifically, the Government is required to:

- (a) adopt legislation to enable the fast-track judicial procedure used to judge the legality of strikes to be also used for disputes arising from the application of Article 656 of the Civil Code in cases of strikes (delinquency of the employer);
- (b) modernise Law No. 1264/1982 and other relevant legislation by creating a digital registry for trade unions, reviewing the list of justified reasons for terminating the contract of workers under protection as trade union members and rationalising the system of trade union members' leave benefits and;
- (c) analyse and adopt legislation to increase the quorum for first-degree unions to vote on a strike to 50%, which would require the convening of the general assembly of employees for the strike vote, as well as a longer period of notice to be given to the employer.

In addition, the Greek authorities are called on to assess the role of arbitration within the existing system of industrial relations and to review, in consultation with the social partners, the current procedures for mediation and arbitration.⁹⁷

The Greek Parliament adopted legislative acts to deliver a number of the actions agreed in the SMoU through various pieces of legislation adopted mainly in November and December 2016 and through omnibus Law No. 4472/2017 of 18 May 2017 as well as minibus Law No. 4475/2017 of 12 June 2017.⁹⁸ On 12 January 2018 is also adopted a law requiring a quorum of 50% of a union's members that has to attend a general assembly where a vote for strike action is on the agenda, contrary to a one third quorum before.

New (legal) developments

Litigation proceedings in the event of a strike: Under the existing legal framework, the majority of disputes arising from a strike are subject to the special (expedited) procedure of labour disputes. New Law No. 4472/2017 provides that salary disputes arising from the delinquency of the employer due to a strike are also subject to the same procedure of labour disputes, thus allowing the more expedited resolution of such disputes.⁹⁹

9. Bibliography

- Bakirtzi, E. (2014) The Right to Strike: Greece, in Waas, B. (ed.), 'The Right to Strike. A Comparative View', Kluwers Law International, 2014, p. 259-284.
- Clauwaert, S. (2016) 'The right to collective action (including strike) from the perspective of the European Social Charter of the Council of Europe', *Transfer*, Vol. 22(3), pp. 405-411.
- Clauwaert, S. and Warneck, W. (2008) *Better defending and promoting trade union rights in the public sector. Part I: Summary of available tools and action points*, Report 105, Brussels: ETUI (<https://www.etui.org/Publications2/Reports/Better-defending-and-promoting-trade-union-rights-in-the-public-sector2>).
- Clauwaert, S. and Warneck, W. (eds.) (2009) *Better defending and promoting trade union rights in the public sector, Part II: Country reports*, Report 108, Brussels: ETUI (<https://www.etui.org/Publications2/Reports/Better-defending-and-promoting-trade-union-rights-in-the-public-sector>).
- Novitz, T. (2017) The Restricted Right to Strike: "Far-Reaching" ILO Jurisprudence on the Public Sector and Essential Services, *Comparative Labour Law and Policy Journal*, 38(3/ p. 353-374.
- Tsimikalis, A., The Right to Strike: Terms and Conditions for Exercising the Right, *Greek Law Digest* (Available at: <http://www.greeklawdigest.gr>).
- Warneck, W. (2007) *Strike rules in the EU27 and beyond: A comparative overview*, Report 103, Brussels: ETUI-REHS (<https://www.etui.org/Publications2/Reports/Strike-rules-in-the-EU27-and-beyond>).

Notes

¹ Status of ratification by Greece of UN instruments: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> .

² Status of ratification by Greece of ILO conventions: http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102658 .

³ Greece had ratified in 1984 the European Social Charter (ratification Law No. 1426/1984, Official Government Gazette, FEK 32/A'/21.03.1984), but it did then did not accept in full Articles 5 (the right to organise) and 6 (the right to bargain collectively) owing to restrictions on the right to join trade unions, the prohibition of lockouts and the possibility of arbitration being imposed.

⁴ Date of entry into force: 11 June 1975.

⁵ Warneck, W. (2007) *Strike rules in the EU27 and beyond: A comparative overview*, Report 103, Brussels: ETUI-REHS, p. 34.

⁶ Law No. 1264/1982, Official Government Gazette FEK 79/A'/01.07.1982, as amended by Law No. 1915/1990 (Official Government Gazette, FEK 186/A'/1990) and Law No. 2224/1994, Official Government Gazette, FEK 112/A'/06.07.1994).

⁷ Bakirtzi, E., *The Right to Strike in Greece*, in: Waas, B. (ed.), 'The Right to Strike. A Comparative View', 2014, p. 262.

⁸ Law No. 2224/1994, Official Government Gazette, FEK 112/A'/06.07.1994.

⁹ Law 1876/1990, Official Government Gazette, FEK 27/A'/08.03.1990, as amended by Law No. 3899/2010, Official Government Gazette, FEK A 212/17.12.2010 and Law No. 4303/2014, Official Government Gazette, FEK 231/A'/17.10.2014.

¹⁰ Law No. 2683/1999, Official Government Gazette, FEK 19/A'/09.02.1999.

¹¹ Bakirtzi, E., *The Right to Strike in Greece*, in: Waas, B. (ed.), *op. cit.*, p. 263.

¹² *Ibid.*

¹³ Supreme Court [Areios Pagos], judgment 27/2004; see also Koukiadaki A., *National perspectives: Greece*, in: Freedland, M. and Prassl, J. (eds), 'Viking, Laval and Beyond'; and Waas, B., *op. cit.*, p. 263.

¹⁴ Waas, B., *op. cit.*, p. 266.

¹⁵ Article 2(1) of Law No. 1264/1982; see also Waas, B., *op. cit.*, pp. 264 to 265.

¹⁶ Article 1(3) of Law No. 1264/1982: Primary unions are (a) organisations possessing the legal form of a trade union; (b) local branches of unions with a broader regional or even national coverage as provided for in their standing rules; and (c) employees' associations or unions of persons, mostly in small enterprises, with the informal status of an association of persons. Second-level trade union organisations are federations and labour centres. Third-level trade union organisations are confederations of federations and of labour centres.

¹⁷ Article 20 of Law No. 1264/1982.

¹⁸ Tsimikalis, A., *The Right to Strike: Terms and Conditions for Exercising the Right*, Greek Law Digest, available at: <http://www.greeklawdigest.gr>.

¹⁹ Article 19(1)(b) of Law No. 1264/1982.

²⁰ One-Member Court of First Instance of Thessaloniki [*Monomeles Protodikeio Thessalonikis*], judgment 233/1989.

²¹ Article 19(1) of Law No. 1264/1982 and Greek Law Digest, *op. cit.*

²² Greek Council of State [*Symvoulío tis Epikrateias*], judgment 2512/1997 (plenary session) and Waas, B., *op. cit.*, p. 259.

²³ Waas, B., *op. cit.*, p. 266.

²⁴ 'Viking, Laval and Beyond', *op. cit.*

²⁵ 'Viking, Laval and Beyond', *op. cit.*, and Waas, B., *op. cit.*, p. 267.

²⁶ Waas, B., *op. cit.*, p. 276.

²⁷ Article 19(1).

²⁸ Article 19(1) of Law 1264/1982, ETUI Report 103, p. 34, and Kravaritou, Y., 'Greece, National Report' in: EUC (ed.), *The regulation of working conditions in the Member States of the European Union*, Vol. 2, Luxembourg, EC, 1998, p. 67.

²⁹ Court of Appeal of Athens [*Efetió Athinon*], decision 1/1992.

³⁰ Kravaritou, Y., *op. cit.*

³¹ One-Member Court of First Instance of Athens [*Monomeles Protodikeio Athinon*], judgment 3011/1990.

³² Waas, B., *op. cit.*, p. 273.

³³ *Ibid.*, p. 276.

³⁴ *Ibid.*, p. 277.

³⁵ *Ibid.* p. 265.

³⁶ *Ibid.* p. 277.

³⁷ Article 22(2) of Law No. 1264/1982.

³⁸ Waas, B., *op. cit.*, p. 266.

³⁹ Greek Law Digest, p. 37.

⁴⁰ Article 19(2) of Law No. 1264/1982 and Clauwaert, S. and Warneck, W. (eds) (2009) *Better defending and promoting trade union rights in the public sector, Part II: Country reports*, Report 108, Brussels: ETUI, p. 83.

⁴¹ Article 19(2) of Law No. 1264/1982

⁴² Article 30 of Law No. 1264/1982

⁴³ According to the Constitution (Article 23(2)), these limitations may not be carried to the point of abolishing the right to strike or hindering the legal exercise of this right.

⁴⁴ Article 23(2) of the Constitution

⁴⁵ Article 3(1)(a) of Law No. 2224/1994, and Waas, B., *op. cit.*, p. 275.

⁴⁶ Article 20(2) of Law No. 1264/1982, and Waas, B., *op. cit.*, p. 275.

⁴⁷ Article 30(8)(a) of Law No. 1264/1982.

⁴⁸ Article 3(1)(b) of Law No. 2224/1994.

⁴⁹ Article 3(1)(c) of Law No. 2224/1994 and Waas, B., *op. cit.*, p. 275.

⁵⁰ Article 3(2) of Law No. 2224/1994.

⁵¹ Article 21(1) of Law No. 1264/1982 and also ‘Viking Laval and Beyond’, *op. cit.*

⁵² Article 21(2) of Law No. 1264/1982.

⁵³ ETUI Report 108, p. 84, and Waas, B., *op. cit.*, p. 275.

⁵⁴ Article 14(1) of Law No. 1876/1990

⁵⁵ Article 14(2) of Law No. 1876/1990 and Waas, B., p. 280.

⁵⁶ Article 16(1) and (2) of Law No. 1876/1990 as amended by Article 4(3) of Law No. 4303/2014.

⁵⁷ Article 16a(1) of Law No. 1876/1990.

⁵⁸ Article 2(9) of Law No. 1876/1990.

⁵⁹ Article 16(9) of Law No. 1876/1990.

⁶⁰ Waas, B., *op. cit.*, p. 269.

⁶¹ Article 4(6) of Law No. 1876/1990.

⁶² See, for instance, One-Member Court of First Instance of Athens [*Monomeles Protodikeio Athinon*], judgment 2182/94.

⁶³ Waas, B., *op. cit.*, p. 278.

⁶⁴ Greek Law Digest, *op. cit.*

⁶⁵ Waas, B., *op. cit.*, p. 278.

⁶⁶ Article 22(1) of Law No. 1264/1982 and Article 30(9) of Law No. 1264/1982 regarding public sector.

⁶⁷ Greek Law Digest, *op. cit.*

⁶⁸ Article 23 of Law No. 1264/1982.

⁶⁹ Court of Appeal of Patras [*Efeteio Patron*], judgment 213/1993.

⁷⁰ Article 22(2) of Law No. 1264/1982.

⁷¹ Waas, B., *op. cit.*, p. 278.

⁷² Waas, B., *op. cit.*, p. 281.

⁷³ Article 22(3) of Law No. 1264/1982, Greek Law Digest, *op. cit.*, and ITUC global rights index: Greece, available at: <https://survey.ituc-csi.org/Greece.html?lang=en#tabs-2> . For some examples of use in practice, see also ITUC global rights index: Greece <https://survey.ituc-csi.org/Greece.html?lang=en#tabs-3> .

⁷⁴ Waas, B., *op. cit.*, p. 279

⁷⁵ ETUI Report 103, p. 35

⁷⁶ *Ibid.*

⁷⁷ Waas, B., *op. cit.*, p. 279

⁷⁸ Article 294 of the Criminal Code

⁷⁹ Article 332 of the Criminal Code

⁸⁰ Article 334 of the Criminal Code

⁸¹ Case No. 2838 – Report No. 362, November 2011, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2912573

⁸² Case No. 2506 – Report No. 346, June 2007, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2910251

⁸³ Case No. 2212 – Report No. 330, March 2003, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2907205

⁸⁴ Case No. 1021 – Report No. 214, March 1982, available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:2900476

⁸⁵ <https://www.ilo.org/dyn/normlex/en/f?p=1000:20060::FIND:NO::>

⁸⁶ CEACR, Observations – adopted 1991 and 1993, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2093292 and http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2112787 respectively.

⁸⁷ CEACR, Observation – adopted 1995, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2136370

⁸⁸ CEACR, Observations – adopted 2011 and 2012, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698647 and http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3086177 respectively.

⁸⁹ CEACR, Observations – adopted 1991, 1993 and 1995

⁹⁰ CEACR, Observations – adopted 1996, 1998, 2000, 2002, 2003 and 2005

⁹¹ CEACR, Observations – adopted 2011, 2012 and 2014, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2698647, http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3086177 and http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3190148 respectively.

⁹² Decision on admissibility, *European Federation of Employees in Public Services (EUROFEDOP) v Greece*, available at: <http://hudoc.esc.coe.int/eng?i=cc-03-1999-dadmiss-en>

⁹³ ETUI Report 105, p. 69

⁹⁴ Laws No. 3833/2010 (FEK A' 40/15.03.2010), No. 3845/2010 on the implementation of the support mechanism of the Greek economy by the Eurozone countries and the IMF (FEK A'65/06.05.2010) and No. 4024/11 (FEK A'226/27.10.2011).

⁹⁵ ETUI Reforms Watch, *Strikes in Greece – Background Summary*, 2016; see also ETUI Reforms Watch, Working Paper '*The crisis and national labour law reforms: a mapping exercise*', Country Report: Greece, 2017.

⁹⁶ Recommendations Expert Group for the Review of Greek Labour Market Institutions, 27 September 2016, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c5d7f>

⁹⁷ European Commission, Compliance Report The Third Economic Adjustment Programme for Greece Second Review, 16 June 2017, pp. 17-18, available at: https://ec.europa.eu/info/sites/info/files/compliance_report-to_ewg_2017_06_21.pdf

⁹⁸ *Ibid.*, p. 2.

⁹⁹ Article 20 of Law No. 4472/2017 (FEK A/74/19.05.2017)