
# The right to strike in the public services

# Latvia

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# The right to strike in the public services: Latvia

## Contents



This factsheet reflects the situation in April 2021. It was elaborated by Natalja Mickeviča (independent expert), updated by Diana Balanescu (independent expert) and reviewed by EPSU/ETUI; it was also sent to the Latvian EPSU affiliates for comments.

# 1. Legal basis

### International level

**UN instruments**
Latvia has ratified[1]:

**International Covenant on Economic, Social and Cultural Rights**
(ICESCR, Article 8)
**International Covenant on Civil and Political Rights**
(ICCPR, Article 22)

**ILO instruments**
Latvia has ratified:

**Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise**
(ratification on 27 January 1992);
**Convention No. 98 concerning the Right to Organise and to Bargaining Collectively**
(ratification on 27 January 1992);
**Convention No. 151 concerning Labour Relations (Public Service)**
(ratification on 27 January 1992);
**Convention No. 154 concerning the Promotion of Collective Bargaining**
(ratification on 25 July 1994).[2]

**European level**
Latvia has ratified:

**Article 6(4) (the right to collective action) of the Revised European Social Charter (ESC)** with no reservations[3]
(ratification on 26 March 2013)

Latvia has not yet accepted the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints[4]

**European Convention on Human Rights (ECHR)**
(ratification on 27 June 1997), including Article 11 (the freedom of assembly and association).[5]

## National level

### The Constitution of Latvia

Article 108 of the Constitution[6] (Satversme) guarantees the right to strike: 'Employed persons have the right to a collective labour agreement, and the right to strike. The State shall protect the freedom of trade unions.' However, according to Article 116 of the Constitution, the right to strike may be subject to restrictions in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the state, and public safety, welfare and morals.

In Case No. 2006-42-01, the Constitutional Court concluded that a strike is a last resort for the protection of workers' interests. Moreover, a strike is not an objective itself in ensuring that employees defend their interests in relations with the employer whose rights and interests in the event of a strike may be seriously impaired. Implementation of the right to strike involves a combination of certain conditions, indicating the impossibility to resolve collective labour dispute on interests.

The possibility of exercising this right exists only if no agreement and reconciliation have been reached in the collective labour dispute on interests. In determining the procedures for exercising the right to strike, the state may also provide for restrictions on these rights. In this way, the state ensures that the fundamental rights are exercised while protecting the rights of other persons and other constitutional values.[7]

### Applicable laws

The main legislative acts regulating the right to strike are the Strike Law[8] (SL) and the Labour Dispute Law[9] (LDL).

The main legislative acts that regulate or clarify the exercise of the right to strike in the **public sector** are the State Civil Service Law,[10] the Law on Police,[11] the Military Service Law,[12] the Law on State Security Institutions,[13] the Border Guard Law[14] and the Fire Safety and Firefighting Law.[15]

The Strike Law **includes provisions on the rights and duties of the parties to a collective interest dispute during a strike**, procedures on and **restrictions to the right to strike**, grounds for recognising a strike or a declaration of a strike as unlawful, supervision of the strike process, as well as liabilities for violations of strike procedures. It also provides that the right to strike is to be exercised as a last resort if no agreement and reconciliation has been reached in the collective interest dispute (Article 3(2) of the Strike Law). The LDL determines pre-strike collective labour dispute resolution procedures.

## 2. Who has the right to call a strike?

According to Article 3 of the Strike Law, all employees in an undertaking or sector have the right to strike in order to protect their economic or professional interests. The right to call a strike lies with employees represented by a trade union or by authorised employee representatives. The declaration of a strike – an announcement regarding the decision to strike – can be made by the trade union of an undertaking or sector, or by employees of an undertaking (Articles 11-13 of the Strike Law).

## 3. Definition of a strike

The Strike Law (SL) defines a strike as a means of resolving a collective interest dispute that manifests itself in such a way that employees or a group of employees of a branch of an undertaking voluntarily, completely or in part, discontinue work in order to attain the fulfilment of their demands (Article 1(3), SL).

During a strike, employees have the right to organise meetings, street processions and pickets (Article 32, SL). However, the Law on Meetings, Processions and Pickets was last amended in 2013 with the introduction of more possibilities for municipalities to restrict and limit demonstrations. This was partly done in response to the unprecedented demonstrations during the financial crisis.

**Forms of strike that are prohibited or limited**

Any strike initiated in order to express political requirements, political support or political protest is unlawful (Article 23(1)4, SL).

The law lays down limitations on **solidarity (sympathy) strikes**. A solidarity strike is defined by the SL as a strike which is not based on a collective dispute regarding interests but on solidarity with the demands of another enterprise or branch trade union or employees of another undertaking and which aims to attain fulfilment of the stated demands. The SL permits only those solidarity strikes which are related to the general agreement (regarding tariffs, labour and other social protection guarantees) and its fulfilment (Articles 1(5) and 23(1)3, SL).

Finally, the SL provides that a strike is regarded as **unlawful** if it is declared during the term of validity of a collective agreement in order to change the conditions of this collective agreement, thus violating the amendment procedures. A strike is also considered to be unlawful if it pertains to the issues upon which the parties have already agreed during strike negotiations (Article 23 (1)3 and (2), SL).

**Lockout**

The Labour Dispute Law (LDL) defines a lockout as a refusal by the employer, employers (a group of employers) or an organisation of employers, or an association of such organisations to employ employees and to pay work remuneration if a strike significantly affects the economic activity of the undertaking. The number of employees against whom the lockout has been directed may not exceed the number of employees on strike (Article 21(2), LDL).

A lockout is prohibited in state administration and local government institutions, as well as in undertakings that shall be regarded as services necessary to the public in accordance with the Strike Law (Article 21(5), LDL).

## 4. Who may participate in a strike?

Article 108 of the Constitution (Satversme) guarantees the right to strike (i.e. participation in a strike) to all employed persons. According to Article 3 of the SL, employees in a sector or undertaking have the right to strike in order to protect their economic or professional interests. As provided by Article 4 of the SL, participation in a strike is voluntary, and an employee may not be forced to participate in a strike or be prohibited from participation in it. This means that any employee has the right to participate in a strike provided that the limitations to the right to strike imposed by legislative acts are respected.

**Limitations on the right to strike**

For certain categories of employees in the public service, the right to strike is either completely denied or limited by the requirement to ensure a minimum level of services during a strike.

The Constitutional Court has recognised that persons entrusted with the performance of public tasks are in a public service relationship with the state, and the principle of equality of the parties does not apply to this legal relationship. A public service relationship is not established by concluding an employment or other civil contract. It is established by appointment by the competent public bodies. Taking into account the role and tasks of the public service, the state is entitled to unilaterally regulate the rights and duties of persons in the public service.[16] Persons employed in the **public service** have limited rights, and they are subject to special duties.[17] The court has also pointed out that some expressions of trade union freedom, such as the right to organise and participate in strikes, may have an impact on the state or public security interests.[18]

In 2000, with the adoption of the new State Civil Service Law, the legislator repealed the prohibition of the right to strike for civil servants. Previously, Article 27 of the State Civil Service Law provided that a civil servant or a civil service candidate was not entitled to strike. In the event of a strike by other state civil servants, a civil servant was obliged to replace striking employees in the performance of their duties in so far as it was necessary for the maintenance of public functions.[19]

Article 16 of the SL provides that **judges, prosecutors, members of the police force, fire-protection, firefighting and rescue service employees, border guards, members of the state security service, warders** and persons who serve in the National Armed Forces are prohibited from striking. Definitions of the aforementioned professions are included in the legislative acts that regulate their professional work.

Article 23 of the Law on Police provides that the police officers' union does not have the right to declare strikes. Since 2005, **police officers** have the right to join trade unions; however, they have no right to organise a strike.

Similarly, **firefighters** have the right to form a trade union, but they have no right to organise or participate in a strike. Article 38 of the Fire Safety and Firefighting Law states that officials with

special service rank are prohibited from organising and participating in strikes. An official with special service rank is defined as an official of the institution of the system of the Ministry of the Interior who, in accordance with their office duties, performs the fire safety, firefighting, rescue or civil protection measures laid down in the Fire Safety and Firefighting Law and other laws and regulations and to whom a special service rank has been granted (Article $35^1$ of the Fire Safety and Firefighting Law).

Previously, Article 49 of the Border Guard Law prohibited border guards from joining trade unions or organising and participating in strikes. A **border guard** is defined as an official of a Ministry of the Interior system institution who ensures the fulfilment of the tasks of the Border Guard and to whom is granted a special service rank. A border guard is a specialised state civil service public servant (Article $6^1$ of the Border Guard Law). In 2014, in Case No. 2013-15-01, the Constitutional Court of Latvia repealed the prohibition for border guards to establish and join trade unions. The Court concluded that the prohibition of the right to organise seeks to exclude, as far as possible, any external influence on the performance of the duties of the border guard service and the course of service. Therefore, it has the legitimate aim of protecting public safety.

However, the prohibition is not proportionate, and the legitimate objective can be achieved via other means. Nevertheless, the restriction of the right to organise and join a strike is still in force. The Court established that, by denying border guards the right to organise and participate in strikes, the legislator ensures that the duties of the State Border Guard Service are continuous and that border guards do not endanger the performance of official functions by organising collective action.[20]

Article 4 of the Law on State Security Institutions provides that **state security institutions** carry out intelligence and counterintelligence activities and are the subjects of investigatory operations. These institutions consist of the Constitution Protection Bureau, the Defence Intelligence and Security Service, and the Security Police (Article 11 of the Law on State Security Institutions). Article 20 of the Law on State Security Institutions lists the rights that are prohibited for officials of state security institutions, including *inter alia* the right to organise strikes, demonstrations and pickets, and to participate therein.

Article 15 of the Military Service Law establishes that **soldiers** are prohibited from joining trade unions, organising and participating in strikes. Article 2 of the same law defines a soldier as a Latvian citizen who performs active service (direct performance of military service in the status of a soldier, which includes professional service, direct performance of military service in the case of mobilisation and military training of reserve soldiers) and who has been awarded a military rank.

However, the Military Service Law does not include limitations on organising and participating in strikes for civilians of military units, i.e. civil employees. They are defined as persons who perform a specific job (work) on the basis of an employment contract in units (sub-units) in civil positions of staff in accordance with regulatory enactments regulating legal employment relationships (Articles 60 and 62 of the Military Service Law).

There is a slight difference between the regulations of the SL and those of the Military Service Law which is *lex specialis* in relation to the SL. The SL states that persons who serve in the National Armed Forces are prohibited from striking. Article 2 of the Military Service Law defines military service as a type of state service in the field of national defence that is performed by a soldier and that includes active service and service in the National Armed Forces' reserve. Therefore, service in the National Armed Forces' reserve is considered to be a part of military service.

However, the Military Service Law does not specifically deny the right to strike to reserve soldiers (Latvian citizens who, following retirement from the professional service (until the time of coming into force of the Military Service Law – active service and rank and file service) or termination of a contract regarding the service in the National Guard of the Republic of Latvia, performs service in the National Armed Forces' reserve (Article 2).

**Minimum level of service**

Article 17 of the Strike Law provides a list of services necessary to the general public in which, during a strike, the minimum amount of work must be continued. These consist of the services in undertakings (companies), organisations and institutions necessary to the public, the discontinuation of which would cause a threat to national security or the safety, health or life of the entire population, certain groups of inhabitants or particular individuals. Services necessary to the public in relation to the right of strike are:

- medical treatment and first aid services;
- public transport services;
- drinking water supplies services;
- electricity and gas production and supplies services;
- communications services;
- air traffic control services and the services which provide air traffic control services with meteorological information;
- services related to the safety of movement of all forms of transport;
- waste and waste water collection and treatment services;
- radioactive substances and waste storage, utilisation and control services; and
- civil defence services.

'Essential services' in the strict sense of the term have been defined by the ILO as those services 'the interruption of which would endanger the life, personal safety or health of the whole or part of the population'.[21]

## 5. Procedural requirements

Procedural requirements are provided for in the Strike Law and the Labour Disputes Law (LDL). The LDL provides for procedures for pre-strike activities (activities before calling a strike) aimed at resolving collective labour disputes. The SL focuses on procedural requirements for adopting a decision to call a strike, declaring a strike and organising activities during a strike.

**Pre-strike dispute resolution requirements**

When a **collective labour dispute on interests** arises, the LDL provides for the requirement to resolve the dispute through conciliation, mediation and arbitration (Articles 14 and 15 of the LDRL; Articles 25 and 27 of the Labour Law[22]). A collective labour dispute regarding interests is defined as differences of opinion between employees or representatives of employees and an employer, employers, an organisation of employers or an association of such organisations, or an administrative authority of the sector that arise in relation to collective negotiation procedures determining new working conditions or employment provisions (Article 13, LDL).

Trade unions or workers have the right to protect their interests by means of collective action:

- if a collective dispute regarding interests is not settled in a conciliation commission and parties thereto do not agree on settlement of the collective dispute regarding interests by a conciliation method;
- if parties to the collective dispute do not agree on transferring the collective dispute regarding interests for settlement to an arbitration court;
- if, within a time period of 10 days from the day on which the dispute was referred to the conciliation commission, a conciliation commission is not established or settlement of the collective dispute regarding interests is not commenced in an arbitration court, in a conciliation commission or through a conciliation method (Article 16(3), LDL);
- if the execution of an adjudication of the arbitration court is not enforced (Article 20(4), LDL).

The LDL specifically provides that, during the period when a collective dispute regarding interests is settled by a mediation method or in the arbitration court, the parties to the collective dispute regarding interests must refrain from exercising the right to take collective action (Articles 16(3) and 20(5), LDL).

## Procedural requirements for adopting a decision to call a strike and declaring a strike

### Adopting a decision to declare a strike

A trade union adopts a decision regarding the declaration of a strike in accordance with the procedures prescribed by its by-laws at a general meeting of the members in which more than half of the number of members of such trade union participate. The decision is approved if a simple majority of the members of the relevant trade union who are present have voted in favour of strike action. The process and the results of the voting are recorded in the minutes.

If it is not possible to convene a general meeting of the members of the relevant trade union due to the large number of members or due to the specific nature of the work organisation, the decision is taken by a simple majority in accordance with the by-laws at a meeting of authorised representatives of the trade union. The trade union also has the right to take a decision regarding the declaration of a strike on behalf of those employees who are not members of the relevant trade union, if such employees have authorised the trade union or the authorised representatives of the members of the trade union (Article 11, SL). The same requirements are laid down for employees adopting a decision regarding the declaration of a strike (Article 12, SL).

Case law has clarified that, where several trade unions are operating in the enterprise, in the event of a collective labour dispute in the pre-strike negotiations, they must follow the procedure prescribed in Article 10(3) of the Labour Law, namely authorise their representatives for joint negotiations with an employer and express a united view. However, the SL does not require that all trade unions have to express a united view in adopting a decision and submitting a declaration to strike, as the SL is *lex specialis* when it comes to strikes.[23]

### Establishing a strike committee

After a decision to declare a strike has been taken, the authorised trade union or employee representatives should set up a strike committee to lead the strike and represent the interests of the employees during the strike negotiations with the employer. The numerical composition of the committee and procedures for the establishment thereof are determined by the authorised trade union or employee representatives (Article 13, SL).

### Advance notice and preventive measures

Not later than seven days prior to the commencement of a strike, the strike committee submits to the relevant employer, the State Labour Inspectorate and the Secretary of the National Tripartite Co-operation Council a decision of the relevant meeting (general meeting) regarding the declaration of a strike, accompanied by the minutes of that meeting, and a declaration of a strike, including:

a. the date, time of commencement of the strike and place of the strike;
b. the reasons for the strike;
c. the demands of the strikers;
d. the number of strikers and;

e. the composition and the leader of the strike committee (Article 14(1) of the SL).

If necessary, not later than three days prior to the commencement of a strike, the strike committee and the employer agree in writing regarding the measures to be taken during the strike in order to:

1. maintain the undertaking, machinery and equipment or devices thereof in such condition which would allow the recommencement of work immediately after the termination of the strike;
2. ensure the guarding of raw materials, finished and unfinished products of an undertaking; and
3. assume the guarding of the machinery and premises of an undertaking (Article 18, SL).

**Minimum level of services**

Where a minimum level of services must be ensured, not later than three days prior to the commencement of a strike, the employer and the strike committee should agree in writing on all aspects involved. The written agreement must designate from among those employees who will participate in the strike a certain number of employees who will work during the strike, as well as specify the amount of practical work they must perform and lay down specific orders (Article 17(3) of the SL). If, during the strike, the parties to the dispute fail to ensure a minimum level of services, the State Labour Inspectorate will give a binding order to the parties requiring that they maintain the minimum amount of work in the services necessary to the public and determine the number of employees who will perform this work (Article 21 of the SL).

**Procedural requirements during the strike**

The strike committee directs and manages the strike. The authority of the strike committee terminates if the parties to the collective interest dispute agree to terminate the strike or if the strike is declared unlawful (Article 15, SL). During the strike, it is prohibited to submit to the employer demands which have not been indicated in the declaration of a strike (Article 14(2), SL).

The State Labour Inspectorate supervises the conformity of the strike procedures. The State Labour Inspectorate is authorised to[24]:

- specify the place and time of strike negotiations if the employer and strike committee are unable to reach an agreement (Article 19 (2) of the SL);

- postpone or terminate the strike in the event of a natural disaster, major accident or epidemic for a period of up to three months with regard to persons involved in the prevention of a natural disaster, major accident or epidemic or elimination of consequences (Article 19 (3) 1 and Article 20 of the SL);

- give binding orders to the parties to the dispute requiring them to maintain the minimum amount of work in the services necessary to the public and determine the number of employees who will perform this work (Article 19 (3) 2 and Articles 21 and 22 of the SL);

- request from the parties to the collective interest dispute the information necessary for the resolution of the dispute and the organisation of strike negotiations (Article 19 (3) 3 of the SL);

**Challenging the legality of a strike**

Only the court may acknowledge a strike or the declaration of a strike to be unlawful. The employer can submit a claim to the court seeking acknowledgement of a strike declaration to be unlawful within four days from the day of the declaration of a strike. The strike may not commence until the judgment of the court comes into effect (Article 24 of the SL). However, the employer can challenge the legality of an ongoing strike at any time after it has been started.

According to Article 251(13) and Articles 390-394 of the Civil Procedure Law[25] the court must examine the claim within 10 days of its receipt. The judgment is final and not subject to appeal.

The court has established that a claim to declare a strike unlawful may be submitted only by the employer.[26]

## 6. Legal consequences of participating in a strike

### Participation in a lawful strike

In the case of a lawful strike:

- the initiation and declaration of a strike, and participation in a strike are not considered to be a violation of the employment contract and cannot constitute grounds for the dismissal of employees;
- the jobs of the striking employees are retained;
- disciplinary sanctions are not applied to the employees who participate in a strike (Article 26 of the SL);
- employees participating in a strike do not receive remuneration and the employer does not make any social security payments for these employees, unless otherwise agreed by the parties to the dispute (Article 28(1) of the SL);
- employees who work during a strike and ensure a minimum level of services receive remuneration for work commensurate with the work performed (Article 28(2) of the SL);
- at the request of an employee, the time during which the employee participates in a strike is not included in the term of a fixed-term contract. The term of a fixed-term contract is suspended for the duration of the strike unless, after the termination of the strike, it is impossible to perform the work for which the fixed-term contract was concluded (Article 27(1) of the SL). The same is ensured regarding employees who do not participate in a strike but, due to the strike, are unable to perform their duties of employment (Article 29 of the SL);
- at the request of an employee, the time during which an employee participates in a strike is not included in the notice periods of an employment contract (Article 27(2) of the SL);
- the refusal of an employee to perform the practical work and follow the orders to ensure a minimum level of services during a strike is regarded as a violation of the work procedures, and the employee is held liable in accordance with the procedures prescribed by law (Article 17(4) of the SL).

Employees who do not participate in a strike and continue to work may not be forced to assume the work of the striking employees (Article 30(2) of the SL), and an employer is prohibited from hiring new employees to replace the striking employees (Article 33 of the SL).

A trade union, employees or a strike committee may establish a fund from voluntary payments, donations of employees and other persons, and a special voluntary insurance fund, as well as other funds in order to render material support to the trade union or employees participating in

the strike. Material and financial support of political organisations (parties) is prohibited from these strike funds (Article 31 of the SL).

For forcing the employee who does not participate in a strike to assume the work of the striking employees, and also for hiring employees to replace the striking employees in order to prevent or suspend the strike or to hinder the fulfilment of the demands of the striking employees, a **fine** from 28 to 70 units of fine shall be imposed on **the employer** if it is a natural person but a fine from 70 to 140 units of fine – if it is a legal person (Article 34 of the SL; this new wording came into force on 1 July 2020). The administrative offence proceedings for the offence referred above shall be conducted by the State Labour Inspectorate (Article 37 of the SL).[27]

**Participation in an unlawful strike**

A strike is regarded as unlawful if:

- the provisions of the SL have been violated;
- the strike has been declared during the term of validity of a collective agreement in order to change its conditions, thus violating the procedures for amending a collective agreement;
- it is a strike of solidarity which is not related to the general agreement (regarding tariffs, labour and other social protection guarantees);
- the strike is initiated in order to express political requirements, political support or political protest;
- if it pertains to the issues upon which the parties have already agreed during the strike negotiations (Article 23 of the SL).

If a strike is declared unlawful:

- a fine from 28 to 70 units of fine shall be imposed on the employee or the authorised official of a trade union for inviting others to participate in an unlawful strike as a result of which an unlawful strike takes place (Article 35 of the SL)[28];
- a fine from 28 to 70 units of fine shall be imposed on the authorised official of a trade union for continuing an unlawful strike (Article 36 of the SL)[29].

The administrative offence proceedings for the offences referred to above shall be conducted by the State Labour Inspectorate (article 37 of the SL).

# 7. Case law of international and European bodies

## ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise

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

There are no recent comments of CEACR relevant to the right to strike in Latvia.

In a number of its previous communications, the CEACR had addressed previous requirements to adopt a decision to **declare a strike**. The CEACR highlighted that the requirement of both a quorum and a majority of three quarters of the union members in order to call a strike is excessive. The CEACR requested the Government to amend Article 11(1) of the Strike Law so as to reduce the required quorum and majority for a strike ballot to a reasonable level. The CEACR subsequently noted with satisfaction the adoption of amendments to the Strike Law providing for:

- the reduction of the required quorum for the vote to declare a strike from three quarters to one half of the members of a trade union or a company who will participate in a meeting which adopts the relevant resolution;
- the adoption of a resolution by a simple majority of the members of the trade union participating in the meeting;
- the reduction of the term to be complied with by the strike committee prior to going on strike from ten days to seven days in order to inform the relevant institutions on the commencement of the strike.[30]

## European Social Charter

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

In its 2010 Conclusions, the ECSR recognised the amendments to the SL stipulating that decisions to declare a strike are taken by a simple majority vote at a general meeting in which at least half of the members of the respective trade union or the employees of the respective undertaking participate and found that the legislation is in conformity with the Charter.[31]

Regarding restrictions on the right to take collective action, the ECSR noted that the right to strike is not absolute and may be restricted, but that any restriction to the right to strike to certain categories of employees or in certain sectors is only in conformity with Article 6(4) of the Charter if it :

(i) is prescribed by law;

(ii) pursues a legitimate purpose, i.e. the protection of the rights and freedoms of others, of public interest, national security, public health or morals and;
(iii) is necessary in a democratic society for the pursuance of these purposes, i.e. the restriction must be proportionate to the legitimate aim pursued.

The ECSR reviewed Article 17 of the SL requiring employers and strike committees to guarantee a minimum level of service when strikes are called in services, undertakings, organisations and institutions necessary to the community, where the interruption of activity could threaten national security or the security, health or life of the entire population, certain groups of inhabitants or particular individuals. The ECSR considered that such restriction is prescribed by law and may serve a legitimate purpose. To establish whether it is necessary in a democratic society within the meaning of Article 31 of the Charter (i.e. whether it is proportionate to the aims pursued), it examined the examples of minimum services established during strike action in the public transport sector and the health care sector.

In the public transport sector, continuity of services had to be ensured in the network of routes to educational establishments, health care establishments, and to state and local government offices during opening hours. In the health care sector, only the continuity of emergency care was required, whereas scheduled operations and other ordinary day-to-day activities were postponed.

The ECSR found that **such restrictions fall within the limits of Article 31 of the Charter** (Conclusions 2010 and 2014).[32]

**Conclusions 2018[33]**

With regard to specific restrictions to the right to strike, the ECSR noted that, according to information provided in previous reports, paragraph one of Article 20 of Law on State Security Institutions stipulates that it is prohibited for officials of State Security institutions to, *inter alia*, organise strikes, demonstrations, pickets and to participate therein. The Committee therefore asked for information on the right of the police to strike.

It recalled its case law in this respect; an absolute prohibition on the right of the police to strike can be considered in conformity with Article 6§4 only if there are compelling reasons justifying it. On the other hand the imposition of restrictions as to the mode and form of such strike action can be in conformity to the Charter (European Confederation of Police (EuroCOP) v. Ireland, Complaint No.82/2012, Decision on the admissibility and merits of 2 December 2013).

Pending receipt of the information requested, the Committee deferred its conclusion.

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## Notes

[1] Status of ratification by Latvia of UN instruments, available at: https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en (accessed on 10 April 2021).
[2] For an overview of all ILO Conventions ratified by Latvia see https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102738 (accessed on 10 April 2021).
[3] Status of ratifications of the Revised European Social Charter: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=jPYjkVEL (accessed on 10 April 2021); see also ESC, Country Profile: Latvia: https://www.coe.int/en/web/european-social-charter/latvia .
[4] Status of ratifications of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158/signatures?p_auth=F3KSQtYr (accessed on 10 April 2021).
[5] Status of ECHR ratifications: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL (accessed on 10 April 2021).
[6] Constitution of the Republic of Latvia (Satversme), adopted on 15 February 1922: https://www.president.lv/en/republic-of-latvia/the-constitution-of-the-republic-of-latvia#gsc.tab=0
[7] Decision of the Constitutional Court of 16 May 2007 in Case No. 2006-42-01, paragraphs 7.1 and 8.
[8] Strike Law, adopted on 23 April 1998: https://likumi.lv/doc.php?id=48074 (last amended on 17 October 2019).
[9] Labour Dispute Law, adopted on 26 September 2002: https://likumi.lv/ta/en/id/67361-labour-dispute-law.
[10] State Civil Service Law, adopted on 7 September 2000: https://likumi.lv/ta/en/id/10944-state-civil-service-law.
[11] Law on Police, adopted on 4 June 1991: https://likumi.lv/ta/en/id/67957-on-police.
[12] Military Service Law, adopted on 30 May 2002: https://likumi.lv/ta/en/id/63405-military-service-law.
[13] Law on State Security Institutions, adopted on 5 May 1994: https://likumi.lv/ta/en/id/57256-on-state-security-institutions.
[14] Border Guard Law, adopted on 27 November 1997: https://likumi.lv/ta/en/id/46228-border-guard-law.
[15] Fire Safety and Firefighting Law, adopted on 24 October 2002: https://likumi.lv/ta/en/id/68293-fire-safety-and-fire-fighting-law.
[16] Decision of the Constitutional Court of 18 December 2003 in Case No. 2003-12-01, paragraph 8.
[17] Decision of the Constitutional Court of 11 April 2006 in Case No. 2005-24-01, paragraph 7.
[18] Decision of the Constitutional Court of 23 April 2014 in Case No. 2013-15-01, paragraph 11.
[19] Law on the State Civil Service, not in force: https://likumi.lv/ta/id/57240-par-valsts-civildienestu.
[20] Decision of the Constitutional Court of 23 April 2014 in Case No. 2013-15-01, paragraphs 14, 16.1 and 16.4.
[21] 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 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, pp. 79-81.
[22] Labour Law, adopted on 20 June 2001: https://likumi.lv/ta/en/id/26019-labour-law.
[23] Decision of the City of Riga Central District Court of 21 November 2014 in Case No. C27196814.
[24] Article 19 (3) clause 4 of the Strike Law was amended on 17 October 2019 / Amendment regarding the deletion of Clause 4 of Paragraph three shall come into force on 1 July 2020. Article 19(3) clause 4 previously provided that: "The State Labour Inspectorate has the right to: impose administrative sanctions on guilty persons for violations of legislative acts".
[25] Civil Procedure Law, adopted on 14 October 1998: https://likumi.lv/ta/en/id/50500-civil-procedure-law.
[26] Decision of the Supreme Court in Case No. SKC-676/2004.
[27] The new wording of Chapter VIII Administrative Offences in the Field of Right to Strike and Competence in Administrative Offence Proceedings of the Strike Law entered into force on 1 July 2020 (concurrently with concurrently with the Law on Administrative Liability): https://likumi.lv/ta/en/en/id/48074-strike-law.

[28] Article 35 of the SL in its new wording came into force on 1 July 2020: https://likumi.lv/ta/en/en/id/48074-strike-law

[29] Article 36 of the SL in its new wording came into force on 1 July 2020: https://likumi.lv/ta/en/en/id/48074-strike-law

[30] Observation (CEACR) – adopted 2006, published 96th ILC session (2007): http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2275303,102738,Latvia,2006; Direct Request (CEACR) – adopted 2004, published 93rd ILC session (2005); Direct Request (CEACR) – adopted 2002, published 91st ILC session (2003); Direct Request (CEACR) – adopted 2000, published 89th ILC session (2001).

[31] ECSR, Conclusions XIX-3 – Latvia – Article 6(4), 17 December 2010; the ECSR confirmed the conformity in its Conclusions XX-3 - Latvia - Article 6(4), December 2014.

[32] ECSR, Conclusions XIX-3 – Latvia – Article 6(4), 17 December 2010 and Conclusions XX-3 - Latvia - Article 6(4), December 2014.

[33] ECSR, Conclusions 2018 – Latvia – Article 6(4) available at: http://hudoc.esc.coe.int/eng?i=2018/def/LVA/6/4/EN.