



The right to strike in the public sector

Republic of Moldova

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1. Legal basis

International level

The Republic of Moldova has ratified:

UN instruments¹:

International Covenant on Economic Social and Cultural Rights

(ICESCR, Article 8) on 26 January 1993

International Covenant on Civil and Political Rights

(ICCPR, Article 22) on 26 January 1993

ILO instruments²:

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

ratified on 12 August 1996;

Convention No. 98 concerning the Right to Organise and to Bargain Collectively

ratified on 12 August 1996;

Convention No. 154 concerning Collective Bargaining

ratified on 14 February 1997

European level ratification in particular of:

Article 6§4 (right to collective action) of the Revised European Social Charter of 1996 with no reservations

ratification 8 November 2001, entry into force 1 January 2002;³

Article 11 (right to organise) of the European Convention of Human Rights

ratification and entry into force on 12 September 1997⁴

The Republic of Moldova has not ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.⁵

National level

- **Constitution** – Article 45 of the Constitution⁶ of the Republic of Moldova, Title II, Chapter II “Fundamental Rights and Freedoms” states that: *‘(1) The right to strike is guaranteed. Strikes may be called only with the view of protecting the economic, social and professional interests of employees. (2) The law shall set forth the conditions governing the exercise of the right to strike, as well as the responsibility for organising illegal strikes.’*⁷
- **Applicable laws**
 - In general – the Labour Code (Law No. 154-XV of 28.03.2003, Chapter IV, Sections 362-370)⁸;

Under Section 362 of the Labour Code, a strike is defined as *‘the refusal on the part of workers to perform totally or partially their duties resulting from the employment relationship with a view to settling a collective labour conflict’*.⁹

Strikes may be initiated only for the purpose of protecting the employees’ professional interests of economic and social character and cannot pursue political purposes.¹⁰

- Specific regulations for public sector – the Labour Code under Section 369 provides restrictions on the exercise of the right to strike for certain categories of employees or workplaces as detailed below under section 4 of this paper.¹¹ For example, the Code on Railway Transportation (Law No. 309-XV of 17.07.2003) provides restrictions on the right to strike for employees in railway transport.¹²

2. Who has the right to call a strike?

According to the Labour Code, strikes at the national, territorial and branch levels may be called and organised by the corresponding national, territorial and branch trade union body.¹³

The strike will be announced and will be carried out in accordance with the Labour Code and the relevant collective agreement concluded at national, territorial or branch level.¹⁴

As regards strikes at enterprise level, the Labour Code stipulates that the interests of workers on strike are expressed by their representatives.¹⁵ It was reported that in the absence of express provisions stipulating the exclusive right to call a strike only for trade unions (as those existing for each of the national, branch and territorial levels), the strike at enterprise level may be called either by the respective trade union or by the elected representatives of employees.¹⁶

3. Definition of strike

According to the Labour Code, strikes may be initiated only for the purpose of protecting the employees' professional interests of economic and social character and **cannot pursue political purposes**.¹⁷ Strikes are conducted with a **view to settle a collective labour dispute**.¹⁸ A strike can be called provided that the conciliation procedure for the settlement of collective disputes has been previously exhausted.¹⁹ The Labour Code does not define other types of collective action.

The Law on Trade Unions No. 1129 of 7.07.2000 provides for the right of trade unions to organise and conduct meetings, demonstrations, rallies, processions, picketing, strikes and other actions, using them as a form of struggle for better working conditions, wage growth, reducing unemployment, strengthening workers' solidarity for fighting for their professional, economic, social and labour rights and interests.²⁰

Trade unions may conduct joint *actions of solidarity* with other organisations, associations and unions in the country and abroad.²¹ In order to protect the professional, economic, social and labour rights and interests of their members, trade unions shall also use other forms of actions which are not contrary to the law.²²

The legislation does not contain provisions for other categories of strikes/collective action such as go-slow actions, rotating strikes, sit-in strikes or work-to-rule strikes. In practice, some types of collective action have been encountered which are not regulated by law such as the possession/retention of the employer's goods by blocking factory gates to ensure goods are not removed²³ or hunger strikes.

4. Who may participate in a strike?

- Article 45 of the Constitution guarantees employees the right to strike. The conditions governing the exercise of this right, as well as the responsibility for illegal strikes shall be provided by law.²⁴
- The Labour Code under Article 369 provides for limitation of participation in strikes, as follows:
 - (1) The strike is prohibited during the period of natural calamities, outbursts of epidemics, pandemics, during the period of setting up of state of emergency or war.²⁵
 - (2) The following categories of employees cannot participate in the strike:²⁶
 - medical-sanitary personnel from hospitals and services of urgent medical assistance;²⁷
 - employees running the systems of water and energy supply;²⁸
 - employees running the telecommunication system;²⁹
 - employees of the services running the airplane traffic;³⁰
 - persons “holding positions with responsibility” in the central public authorities;³¹
 - employees of the bodies that provide the public order, law enforcement order and state security, the court judges, employees from military entities, organizations or institutions of Armed Forces;³²
 - employees working in entities with continuous flow;³³
 - employees working in entities manufacturing goods for the needs related to country defense.³⁴

The Labour Code provides that the classified list of entities, sectors and services, whose employees cannot participate in the strike [according to paragraph (2) of Article 369 of the Labour Code], is approved by the Government after consultation with employers' organisations and trade unions.³⁵

The Labour Code further stipulates that in case of strike prohibition [according to Section 369 (1) and (2)] the collective labour conflicts shall be settled by the bodies of labour jurisdiction.³⁶

The Government Decision no. 656 of 11.06.2004 on the approval of the Nomenclature of Units, Sectors and Services whose employees cannot take part in strike³⁷ in its Annex lists the following categories:

- persons with senior management functions and management functions in the central public administration (ministries, other central administrative authorities), in the Secretariat of the Parliament, the State Chancellery and the apparatus of the President;
- the personnel on duty from the medical-sanitary and pharmaceutical institutions, regardless of the type of property and their legal form of organisation, and from the National Agency for Public Health;
- as for telecommunication system, the employees involved in operative services for maintenance and management of electronic communications services and infrastructure;

- all employees of energy supply units;
 - all employees of units supplying water and sewerage services;
 - the employees of air traffic management services;
 - Ministry of Internal Affairs: civil servants with *special status* within the subdivisions of the ministry, administrative authorities and subordinate institutions;
 - judges
 - Information and Security Service: information and security officers;
 - National Center for Anticorruption: civil servants with *special status*;
 - Armed Forces: the military and all employees;
 - Customs Service: civil servants with *special status*;
 - National Administration of Prisons: civil servants with *special status*;
 - Prosecutors of the General Prosecutor's Office, the territorial prosecutor's offices and the specialised prosecutors' offices;
 - State Protection and Security Service: protection officers (persons with public-dignity functions and civil servants with *special status*).
- Restrictions on the right to strike are stipulated in Section 21 paras. (2) and (3) of the Code on Railway Transportation (Law No. 309-XV of 17 July 2003) which provide that: "[...] (2) The cessation of work in railway transport as a means of resolving collective labour disputes is prohibited. (3) The cessation of work for the reasons indicated in paragraph (2) represents a serious violation of the labour discipline and incurs liability according to the legislation in force."
 - Law No. 170/2007 on the Status of Security and Intelligence Officers, in Article 40 (1) provides that Intelligence Officers are restricted from exercising the following rights and freedoms: (...) g) the right to form and to join trade unions and the right to strike.³⁸
 - Law No. 158/2008 on State Functions and the Status of Public Servants provides in Article 21: (1) Civil servants shall have the right to strike under the law. (2) Civil servants are forbidden to participate in strikes hindering the functioning of public authority whose business depends on providing society with vital goods and services.³⁹

Regarding the list of services where strikes are prohibited pursuant to Decision No. 656 of 11.06.2004 mentioned above, the ILO CEACR noted, in particular, that services, such as air traffic and communication system are included in the list which are neither essential services in the strict sense of the term nor do they involve public servants exercising authority in the name of the State, where the right to strike can be prohibited (see also Section 7 below).⁴⁰ The "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."⁴¹

Moreover, the European Committee of Social Rights concluded that the situation in the Republic of Moldova was not in conformity with Article 6§4 of the Charter on the grounds that⁴² (i) the restrictions on the right to strike for public officials and employees in sectors including the public administration, state security sectors and national defence go beyond those permitted by Article G of the Charter; (ii) the right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control; (iii) the restrictions on the right to strike of the employees of the customs authorities go beyond those permitted by Article G of the Charter (see also Section 7 below).

It was commented⁴³ that the reference to "officials in the central public authorities", to "employees working in entities with continuous flow", and to "employees working in entities manufacturing goods for the needs related to country defense", seem particularly overbroad, in the absence of any reference to any minimum service requirement.

5. Procedural requirements

- A strike may be declared if the parties have exhausted all procedures to resolve the collective labour dispute provided for in the Labour Code.⁴⁴ Carrying out conciliation procedures in the workplace, in accordance with Article 359 of the Labour Code, prior to the beginning of the strike is compulsory.⁴⁵
- The decision to call a strike is taken by the *representatives* of the employees.⁴⁶ The Labour Code specifies that at company level, the interests of employees on strike are expressed by their representatives⁴⁷, while strikes at the national, territorial and branch levels may be called and organised by the corresponding national, territorial and branch trade union body.⁴⁸
- Strike ballots – no provisions found in legislation.⁴⁹
- A strike must be notified to the employer **48 hours** before its commencement.⁵⁰
- **Place of strike.** The strike is usually carried out at the permanent workplace of employees.⁵¹ If the claims of employees are not satisfied within 15 calendar days, the strike can be also carried out outside the entity building. With the consent of employees' representatives, the public administration authorities shall establish the public places or rooms where the strike will be carried out. The carrying out of the strike outside the entity and in public places shall be in accordance with legislation regulating the organisation and conducting of meetings.⁵²
- The participation in a strike is voluntary. No one can be forced to participate in a strike.⁵³
- The employees on strike, together with employer, have the obligation, during the strike, to protect the entity assets and provide a continuous functioning of equipment and installations whose stoppage might put in danger the life and health of people or can cause irreparable damages to the entity.⁵⁴
- **Strike suspension.** The employer can request the suspension of a strike for a period of maximum 30 calendar days in the event that life and health of people can be in danger or when is deemed that strike has been declared or carried out with violation of the legislation in force.⁵⁵ The request of strike suspension shall be submitted to the court and the court will examine the request within 2 working days and deliver its decision to the parties within 48 hours from the moment it has been taken.⁵⁶
- With regard to any *peace obligation* be respected, Article 31 (2) (m) of the Labour Code stipulates that collective agreements may include clauses containing the mutual agreement of the parties to abstain from having recourse to strike action as long as the provisions of an applicable collective agreement are fulfilled/observed. Pursuant to Article 17 (j) of the Labour Code one of the basic principles of social partnership is to abstain from unilateral actions that would be in breach of collective labour contracts and collective agreements.⁵⁷

6. Legal consequences of participating in lawful/unlawful strikes

Participation in a lawful strike

- The participation in a strike or its organisation with observance of the provisions of the Labour Code is not a breach of the work obligations and cannot have negative consequences on the employees on strike.⁵⁸
- It was reported that the participation of an employee to a collective labour dispute and to a strike is not expressly stipulated among the grounds for terminating the individual labour contract by the employer under the Moldovan legislation.⁵⁹
- During the strike, all the rights deriving from the individual and collective labour contracts, as well as from the collective agreements and the Labour Code, with the exception of the wage rights, are maintained for the employees.⁶⁰
- It was reported that the above mentioned provisions apply to both trade union members and workers participating in a strike who are not members of the trade union that called the strike.⁶¹
- During the strike, the employer cannot be hindered to carry out his activity by employees on strike.⁶²
- The employer may not employ other employees to replace those who are on strike.⁶³
- The employees who do not participate in the strike can continue their activity at their workplace, unless the technological, security and health labour conditions do not allow it.⁶⁴
- The employees who do not participate in the strike and stopped their work due to the strike will be entitled to remuneration of at least 75% of their wage.⁶⁵
- According to the law, trade unions may constitute their own funds to assist their members in case of strike.⁶⁶
- The legislation does not provide for the right of the employer to *lock-out* workers.⁶⁷

Participation in an unlawful strike

- According to the Labour Code, for calling and organising an unlawful strike, the responsible persons bear disciplinary, material, administrative and criminal responsibility.⁶⁸
- When a strike has been found to be unlawful, the court which establishes the illegality of the strike can oblige the responsible persons to repair the material and moral damage, in accordance with the Labour Code and other laws in force.⁶⁹
- Under the Criminal Code, organising or leading an unlawful strike and hindering the activity of an enterprise, institution, or organisation in conditions of emergency, siege, or a military situation shall be punished by a fine of up to 500 conventional units or by community service for 100 to 240 hours.⁷⁰

- In case of unlawful strike, the cessation of work by employees is considered a wrongful act, a breach of work duties. The employer may initiate disciplinary proceedings, which may also lead to the dismissal of the respective workers. For example, the employer may dismiss an employee (i) for repeated infringement of labour responsibilities within one year if disciplinary sanctions were already applied against the employee or (ii) for absence from work without a valid reason for more than 4 consecutive hours (without the meal break) within one working day.⁷¹

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

- **International Labour Organisation**

- **The Committee of Freedom of Association (CFA)**

CFA, Case No. 2317, Report No. 350, June 2008⁷²

The complainants alleged that the public authorities and employers interfere in the internal matters of their organisations and pressure their members to change their affiliation and become members of the trade union supported by the Government.

The Committee also once again requested the Government to actively consider, in full and frank consultations with social partners, legislative provisions expressly sanctioning violations of trade union rights and providing for sufficiently dissuasive sanctions against acts of interference in trade union internal affairs. The Committee expected that the measures taken by the Government in this regard will not only address violations of the Labour Code, but also other laws concerning freedom of association and collective bargaining rights, such as the Law on Trade Unions. The Committee drew the attention of the Committee of Experts on the Application of Conventions and Recommendations to the legislative aspects of this case and recalled that the Government may avail itself of the technical assistance of the Office in this regard.⁷³

- **The Committee of Experts on the Application of Conventions and Recommendations (CEACR)**

Direct Request (CEACR) - adopted 2017, published 107th ILC session (2018)⁷⁴

In its previous direct request, the Committee had requested the Government to indicate concrete steps taken to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, and to transmit a copy of Decision No. 656 of 11 June 2004 providing for the list of categories of workers who are prohibited from striking pursuant to section 369 of the Labour Code.

The Committee noted the Government's indication that it is willing to make more flexible rules governing the right to strike by reducing the categories of workers who cannot take part in strikes and by providing for minimum services in the most important sectors for the State and society, and that these rules shall be decided upon jointly with trade unions and employers' organizations. In this regard, the Committee noted the list of services where strikes are prohibited pursuant to Decision No. 656 communicated with the Government's report. It noted, in particular, that services, such as air freight and communication system enterprises are included in the list which are neither essential services in the strict sense of the term nor do they involve public servants exercising authority in the name of the State, where the right to strike can be prohibited.

The Committee once again requested the Government to take the necessary steps, in consultation with the social partners, to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike, and to amend the list of services where strikes are prohibited.

Observation (CEACR) - adopted 2010, published 100th ILC session (2011)⁷⁵

With regard to the penal sanctions in case of an illegal strike, in its previous comments, the Committee had requested the Government to amend sections 357(1) and 358(1) of the Criminal Code providing for disproportionate penal sanctions (including imprisonment for up to three years) for organising or conducting an illegal strike. The Committee noted the Government's indication that section 357(1) of the Code has been amended by Law No. 277-XVI of 18 December 2008 (in force since 24 May 2009) as to provide that "organising or conducting an illegal strike, as well as preventing/hindering of an organisation's, institution's or enterprise's activity, under the state of emergency, siege or war is punishable by a fine of up to the amount of 500 conventional units, or by unpaid community service for the period from 100 to 240 hours". The Committee also noted with satisfaction that Section 358 of the Code was repealed by the same legislative Act.

- **European Social Charter**
- **Conclusions on Article 6§4 of the European Committee of Social Rights (ECSR)⁷⁶**

The ECSR in its Conclusions 2018 on Article 6§4 concluded that the situation in the Republic of Moldova was not in conformity with Article 6§4 of the Charter on the grounds that:⁷⁷

- the restrictions on the right to strike for public officials and employees in sectors including the public administration, state security sectors and national defence go beyond those permitted by Article G of the Charter;
- the right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control;
- the restrictions on the right to strike of the employees of the customs authorities go beyond those permitted by Article G of the Charter;
- the obligation imposed on workers on strike to protect enterprise installations and equipment go beyond those permitted by Article G.

With regard to the entitlement to call a collective action, the ECSR noted that at the national level the Confederation of Trade Unions is the only trade union entitled to call a strike at the national level, which it considered constituted a restriction on the right to strike. The Committee recalls that at the national (and branch level) only a trade union may call a strike, and that at the national level there is only one trade union. The report provided information on this issue therefore the Committee requested clarification as to who may call a strike at every level.

In its Conclusions 2016⁷⁸ on Article 6§4, the ECSR concluded that the situation in Moldova is not in conformity with Article 6§4 of the Charter on the grounds that it is not established that the restrictions to the right to strike of the employees of the customs authorities fall within the limits of Article G of the Charter.

The Committee took note of the information submitted by the Republic of Moldova in response to the conclusion that it had not been established that the restrictions to the right to strike of the employees of the customs authorities comply with the conditions established by Article G of the Charter (Conclusions 2014, Moldova).

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 (Conclusions X-1 (1987), Norway (regarding Article 31 of the Charter)).

Prohibiting 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 (Conclusions I (1969), Statement of Interpretation on Article 6§4, Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour “Podkrepa” and European Trade Union Confederation (CES) v. Bulgaria, Complaint No. 32/2005, Decision on the merits of 16 October 2006, §24).

However, simply banning strikes even in essential sectors – particularly when they are extensively defined, i.e. “energy” or “health” – is not deemed proportionate to the specific requirements of each sector. At most, the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4 (Conclusions XVII-1 (2004), Czech Republic).

The Committee previously noted that employees of the customs authorities of a particular grade are also denied the right to strike (Conclusions 2006, Conclusions 2010). It asked whether the duties and functions of the employees concerned, given their nature or level of responsibility, are directly related to national security or the protection of public order (Conclusions 2014). The report simply stated that the Committee's conclusions regarding restrictions on the right to strike will be examined by a tripartite group, and then Committee will be informed of any developments. As there had been no changes to the situation the Committee was obliged to reiterate its previous conclusion.

8. Recent developments

With regard to legal developments, on 7 November 2017, following the filing of a complaint (no. 62a/2017) by the People's Advocate, the Constitutional Court delivered a judgment on the constitutionality of Article 369 paras. (2), (3) and (4) of the Labour Code, Article 21 paras. (2) and (3) of the Code on Railway Transportation and the Government Decision no. 656 of 11 June 2004 on the approval of the Nomenclature of Units, Sectors and Services whose employees cannot take part in strikes.⁷⁹

By its decision, the Court noted that the Nomenclature of Units, Sectors and Services whose employees cannot participate in strikes, approved by Government Decision no. 656 of 11 June 2004, cannot exceed the limits instituted by the legislator through Article 369 para. (2) of the Labour Code. Therefore, the Court found that while Article 369 para. (2) e) of the Labour Code provides that **only officials from central public authorities cannot take part in strikes**, the provisions of the Government Decision prohibit the participation in strikes of **all employees of the Parliament, the State Chancellery and the Presidency**. Under these circumstances, the Court held that the wording „All employees” in sections 2, 3 and 4 shall be interpreted as referring **only to the officials from central public authorities**.

At the same time, in line with the provisions of Article 369 para. (2) (f) of the Labour Code, the Court held that the words „all employees” in sections 10, 12, 16, 17, 19 and 20 of the aforementioned Nomenclature shall be interpreted as referring only to the staff members of internal affairs bodies, the General Prosecutor's Office, the Intelligence and Security Service, the Department of Penitentiary Institutions, the Department of Emergency Situations, the State Protection and Guard Service, **which have as functional competencies to ensure public order, rule of law and state security**. Moreover, the text „entire system” in section 11 shall be understood as referring to **judges of ordinary courts**.

Following the Constitutional Court Decision, the Annex of the Government Decision no. 656 of 11 June 2004 [regarding the Nomenclature of Units, Sectors and Services whose employees cannot take part in strikes] has been amended accordingly.⁸⁰

In practice, there have been reported cases of withholding of union dues in several sectors such as the construction sector, the light industry, the railway industry and the public sector (social services)⁸¹, charges against trade unionists⁸² as well as interferences by the government and employers in trade unions' internal affairs.⁸³

Strikes were recently reported in the urban transport of passengers where more than 250 transport units protested actively and other 200 units suspended their activity, demanding an increase of tariffs/transport prices.⁸⁴

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NOTES

- ¹ Status of ratification by the Republic of Moldova 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 the Republic of Moldova of ILO Conventions available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102695, consulted on 24.10.2019
- ³ Status of ratification by the Republic of Moldova of the Revised European Social Charter 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 at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL, consulted on 25.10.2019
- ⁵ For more details on the collective complaints system of the European Social Charter see: <https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure>
- ⁶ The Constitution of the Republic of Moldova was adopted on 29.07.1994 and entered into force on 27.08.1994; the Constitution was amended and supplemented subsequently;
- ⁷ The text of the Constitution available on: the Presidency of the Republic of Moldova at: <http://www.presedinte.md/eng/constitution>, consulted on 28.10.2019
- ⁸ The Labour Code, Law No. 154-XV of 28.03.2003, published in the Official Gazette No. 159-162 of 29.07.2003 and amended subsequently, is available at: <http://lex.justice.md/md/326757/> (in Romanian) and at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=&p_isn=64896&p_classification=01.02 (unofficial translation in English)
- ⁹ Section 362 (1) of the Labour Code
- ¹⁰ Section 362 (2) of the Labour Code
- ¹¹ Section 369 (2) of the Labour Code
- ¹² Section 21 (2) and (3) of the Law No. 309-XV of 17.07.2003
- ¹³ Sections 364 (1), 365 (1) and 366 (1) of the Labour Code
- ¹⁴ Sections 364 (3), 365 (3) and 366 (3) of the Labour Code
- ¹⁵ Section 363 (2) of the Labour Code
- ¹⁶ ECSR, Conclusions 2014 on Article 6§4, Republic of Moldova available at: [https://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["MDA"\],"ESCDcIdentifier":\["2014/def/MDA/6/4/EN"\]}](https://hudoc.esc.coe.int/eng#{)
- ¹⁷ Section 362 (2) of the Labour Code
- ¹⁸ Section 362 (1) of the Labour Code
- ¹⁹ Section 362 (3) of the Labour Code
- ²⁰ Section 22 of the Law on Trade Unions No. 1129 of 7.07.2000, available (in English) at: <https://www.legislationline.org/documents/id/15956>
- ²¹ Section 22 (2) of the Law on Trade Unions
- ²² Section 22 (3) of the Law on Trade Unions
- ²³ ITUC Global Rights Index, ITUC Survey of violations of trade union rights, Republic of Moldova, see 'Charges against trade unionists', 28.02.2013 available at: <https://survey.ituc-csi.org/Moldova.html?lang=en#tabs-3>
- ²⁴ Article 45 (1) and (2) of the Constitution
- ²⁵ Section 369 (1) of the Labour Code
- ²⁶ Section 369 (2) a)-h) of the Labour Code
- ²⁷ Section 369 (2) a) of the Labour Code
- ²⁸ Section 369 (2) b) of the Labour Code
- ²⁹ Section 369 (2) c) of the Labour Code
- ³⁰ Section 369 (2) d) of the Labour Code
- ³¹ Section 369 (2) e) of the Labour Code
- ³² Section 369 (2) f) of the Labour Code
- ³³ Section 369 (2) g) of the Labour Code
- ³⁴ Section 369 (2) h) of the Labour Code
- ³⁵ Section 369 (3) of the Labour Code
- ³⁶ Section 369 (4) of the Labour Code
- ³⁷ See the text in Romanian at: <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=303735&lang=1> as amended and valid as of 28.09.2018, consulted on 28.10.2019; See also 14th National Report on the implementation of the European Social Charter submitted by the Government of the Republic of Moldova, 31 July 2018, pp. 41-42, available at: <https://rm.coe.int/14th-national-report-on-the-implementation-of-the-european-social-char/16808cfd4d>
- ³⁸ IRLX, Industrial Relations, Country Profile, Republic of Moldova, item 7.4.2.1., available at: https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MDA,,2015:NO

- ³⁹ IRLEX, Industrial Relations, Country Profile, Republic of Moldova, item 7.4.2.3., available at: https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MDA,,2015:NO
- ⁴⁰ ILO CEACR, Direct Request adopted 2017, published 107th ILC session (2018), available at: https://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:3343700,102695,Moldova,%20Republic%20of,2017
- ⁴¹ 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
- ⁴² ECSR, Conclusions 2018 on Article 6§4, Republic of Moldova available at: [https://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["MDA"\],"ESCDcIdentifier":\["2018/def/MDA/6/4/EN"\]}](https://hudoc.esc.coe.int/eng#{)
- ⁴³ Olivier de Schutter, ‘Report on the Implementation of the European Social Charter in the Republic of Moldova: Key Challenges’, pp. 14-16, 22.01.2018, available at: <https://rm.coe.int/report-the-implementation-of-the-revised-esc-in-the-republic-of-moldov/16807822f6>
- ⁴⁴ Section 362 (3) of the Labour Code
- ⁴⁵ Section 363 (1) of the Labour Code
- ⁴⁶ Section 362 (4) of the Labour Code
- ⁴⁷ Section 363 (2) of the Labour Code
- ⁴⁸ Sections 364 (1), 365 (1) and 366 (1) of the Labour Code
- ⁴⁹ IRLEX, Industrial Relations, Country Profile, Republic of Moldova, item 7.3.3, available at: https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MDA,,2015:NO
- ⁵⁰ Section 362 (4) of the Labour Code
- ⁵¹ Section 367 of the Labour Code
- ⁵² Section 367 (1) –(4) of the Labour Code
- ⁵³ Section 363 (4) of the Labour Code
- ⁵⁴ Section 363 (3) of the Labour Code
- ⁵⁵ Section 368 (1) of the Labour Code
- ⁵⁶ Section 368 (2)-(6) of the Labour Code
- ⁵⁷ Section 31 (2) (m) of the Labour Code; see also ECSR, Conclusions 2006 on Article 6§4, Republic of Moldova available at: <http://hudoc.esc.coe.int/eng?i=2006/def/MDA/6/4/EN>
- ⁵⁸ Section 363 (8) of the Labour Code
- ⁵⁹ ECSR, Conclusions 2014 on Article 6§4, Republic of Moldova available at: <http://hudoc.esc.coe.int/eng?i=2014/def/MDA/6/4/EN>
- ⁶⁰ Section 363 (9) of the Labour Code
- ⁶¹ ECSR, Conclusions 2014 on Article 6§4, Republic of Moldova available at: <http://hudoc.esc.coe.int/eng?i=2014/def/MDA/6/4/EN>
- ⁶² Section 363 (6) of the Labour Code
- ⁶³ Section 363 (7) of the Labour Code
- ⁶⁴ Section 363 (5) of the Labour Code
- ⁶⁵ Sections 363 (10) and 80 of the Labour Code
- ⁶⁶ Section 27 of the Law on Trade Unions No. 1129 of 7.07.2000, available (in English) at: <https://www.legislationline.org/documents/id/15956>
- ⁶⁷ IRLEX, Industrial Relations, Country Profile, Republic of Moldova, item 7.5, available at: https://www.ilo.org/dyn/irlex/en/f?p=14100:1100:0::NO:1100:P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MDA,,2015:NO
- ⁶⁸ Section 370 (1) of the Labour Code
- ⁶⁹ Section 370 (2) of the Labour Code
- ⁷⁰ Section 357 of the Criminal Code; see also ILO CEACR, Observation adopted 2010, published 100th ILC session (2011), available at: https://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:2326376,102695,Moldova,%20Republic%20of,2010
- ⁷¹ See Section 86 (1) g), h) of the Labour Code
- ⁷² CFA, Report No. 350 of June 2008, available at https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2908419
- ⁷³ See also CFA Reports No. 353/2009 and No. 356/2010 for a follow-up of the recommendations, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:50001::NO::>

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- ⁷⁴ ILO CEACR, Direct Request adopted 2017, published 107th ILC session (2018), available at: https://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:3343700,102695,Moldova,%20Republic%20of,2017
- ⁷⁵ ILO CEACR, Observation adopted 2010, published 100th ILC session (2011), available at: https://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:2326376,102695,Moldova,%20Republic%20of,2010
- ⁷⁶ See ECSR, Conclusions on Article 6§4, Republic of Moldova, available at: <https://hudoc.esc.coe.int/eng#%7B%22ESCArticle%22:%5B%2206-04-000%22%5D,%22ESCDcLanguage%22:%5B%22ENG%22%5D,%22ESCDcType%22:%5B%22Conclusion%22%5D,%22ESCStateParty%22:%5B%22MDA%22%5D%7D>
- ⁷⁷ ECSR, Conclusions 2018 on Article 6§4, Republic of Moldova available at: <http://hudoc.esc.coe.int/eng?i=2018/def/MDA/6/4/EN>
- ⁷⁸ ECSR, Conclusions 2016 on Article 6§4, Republic of Moldova available at: <http://hudoc.esc.coe.int/eng?i=2016/def/MDA/6/4/EN>
- ⁷⁹ Constitutional Court, complaint no. 62a/2017, judgment no. 30 of 7.11.2017, available at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=372616> (text of judgment in Romanian language) and <http://www.constcourt.md/libview.php?l=en&idc=7&id=1096&t=/Media/News/Limitation-of-the-right-to-strike-for-certain-categories-of-employees-constitutional-complaint-62a2017> (unofficial translation in English)
- ⁸⁰ See the wording of the Annex in Section 4 of this paper
- ⁸¹ ITUC Global Rights Index, Survey of violations of Trade Union Rights, “Withholding of union dues”, available at: <https://survey.ituc-csi.org/Moldova.html?lang=en#tabs-3>
- ⁸² ITUC Global Rights Index, Survey of violations of Trade Union Rights, “Charges against trade unionists”, available at: <https://survey.ituc-csi.org/Moldova.html?lang=en#tabs-3>
- ⁸³ ITUC Global Rights Index, Survey of violations of Trade Union Rights, “Issues in the ILO complaint still unresolved”, available at: <https://survey.ituc-csi.org/Moldova.html?lang=en#tabs-3>
- ⁸⁴ “Over 450 transport units suspend their activity”, October 2019, available at: <https://sputnik.md/society/20191008/27785875/Peste-450-de-unitati-de-transport-isi-vor-suspenda-cursele.html>