



The right to strike in the public services

Netherlands



The right to strike in the public services: Netherlands

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This factsheet reflects the situation in May 2021. It was elaborated by Nina Büttgen (independent expert), updated by Diana Balanescu (independent expert), reviewed by EPSU/ETUI and sent to EPSU affiliate FNV for checking.

1. Legal basis

International level

The Netherlands has ratified:

UN instruments¹

International Covenant on Civil and Political Rights

(ICCPR, Article 22)

International Covenant on Economic, Social and Cultural Rights

(ICESCR, Article 8)

By means of a reservation, the Netherlands excludes the application of Article 8 (the right to strike) to the central and local government bodies of the Netherlands Antilles.

ILO instruments²

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

(ratification on 7 March 1950);

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

(ratification on 22 December 1993);

Convention No. 151 concerning Labour Relations (Public Service)

(ratification on 29 November 1988);

Convention No. 154 concerning the Promotion of Collective Bargaining

(ratification on 22 December 1993).

European level

The Netherlands has ratified:

Article 6(4) (the right to collective action) of the European Social Charter of 1961 (1961 Charter) with reservations

(ratification on 22 April 1980 and entry into force on 22 May 1980) ³

The Netherlands entered a reservation at the time of ratification of the 1961 Charter which excludes the application of Article 6(4) to civil servants.

The (Revised) European Social Charter (Revised Charter) with reservations

(ratification on 3 May 2006 and entry into force on 1 July 2006) ⁴

The reservation provides that the Netherlands considers itself bound by Article 6(4) except with respect to military personnel in active service and civil servants employed by the Ministry of Defence.

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

(ratification on 3 May 2006 and entry into force on 1 July 2006) ⁵

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

(ratification and entry into force on 31 August 1954). ⁶

National level

The Dutch Constitution

The Dutch Constitution (*grondwet*, GW) recognises the right of association, which may be restricted by an act of Parliament in the interest of public order (Article 8 GW). It also lays down the right of assembly and demonstration, without prejudice to the responsibility of everyone under the law (Article 9 GW). These provisions provide the basis for the formation and functioning of collective industrial organisations in the Netherlands but there is no statutory recognition of the right to strike.

Applicable legislation

- **In general:** Statutory law recognises the right to strike only in an indirect way – particularly with respect to the contracting parties' duty to refrain from collective action such as striking during the period that the collective labour agreement is in force (duty of peace). The legislation empowers the Dutch Minister of Social Affairs and Employment to declare collective labour agreements generally binding for an entire sector. However, the law provides that clauses containing obligations of the contracting parties towards each other, such as 'duty of peace' clauses, cannot be declared binding on third parties.
- **Specific legislation applicable to the public sector:** Article 12(i) of the Military Service Act specifies limitations on the right to strike for this group of public servants. Article 1 denies the right to strike to those military servants in active service. Article 3 in principle grants the right to take collective action and to strike to those servants employed by the Ministry of Defence, unless the strike or other forms of collective action are likely to disturb or disrupt the operational capacity of the armed forces.
- **In the past, the right to strike** was not accepted by the Netherlands (prohibited by the Penal Code until 1872, after which time it could still be cited as a ground for legal damages under the Civil Code), but today it is firmly rooted in Dutch law. In 1960, according to the Dutch Supreme Court, being on strike amounted to contractual default for an individual worker and an action of tort for a trade union ('*Panhonlibco*' decision).⁷ From the 1970s, the lower Dutch courts started to consider strikes as an acceptable form of collective action or even a fundamental right. In 1986, the Supreme Court reversed its position (in the '*Nederlandse Spoorwegen*' case),⁸ declaring Article 6(4) of the 1961 Charter *directly binding* for anyone under Dutch jurisdiction, subject to the exceptions provided for in Article 31 of that Charter.⁹ Dutch case law, moreover, routinely tests the compliance of strike action with procedural rules and subjects it to a proportionality test (see section 5 below).
- **Most collective agreements** in the Netherlands are concluded at branch level. They may be extended to apply generally to the entire sector by means of a ministerial declaration.

2. Who has the right to call a strike?

Most strikes in the Netherlands are organised by unions. It is a requirement that strike action is undertaken by a group of employees; an individual on strike may be deemed to be in contractual default. Wildcat strikes are not excluded from the scope of Article 6 (4) of the European Social Charter, especially when this unofficial collective action is (subsequently) taken over by a trade union.

3. Definition of a strike

Although in the Netherlands the right to strike has been established through case law, the Dutch Supreme Court has not provided a definition of a strike. This case law has been developed based on Article 6(4) of the European Social Charter, which also does not contain a definition of collective action. A collective work stoppage by employees is the conventional form of strike action.¹⁰

A strike, even a conventional one, can be **unlawful** when procedural rules are disregarded or if the collective action is disproportionate to the interests at stake (see section 5 below).

Strike action is a legitimate means that may be used in a collective conflict of industrial interests. Disputes over the existence, validity or interpretation of a law or a collective agreement (e.g. the dismissal of an individual employee) are reserved for the courts. Nevertheless, the concept of ‘conflict of interests’ is usually interpreted broadly, and applies as soon as the action has a collective goal.¹¹

Nevertheless, for collective action by workers and trade unions to be **lawful**, it should reasonably contribute to the proper exercise of the right to bargain collectively over working conditions. Lawful collective action may thus include declaring the contamination of the discharge of a ship in the port (*Enerco* case), short work stoppages and the occupation of business premises (*Amsta* case), as well as go-slows and work-to-rule action. Peaceful picketing is also considered to be covered by the right to strike.¹²

This means that **political strikes**, which fall outside the realm of collective bargaining, would, in principle, not be considered acceptable. However, the Dutch Supreme Court has held that organising a strike to put the Government under pressure could fall within the scope of Article 6(4) of the European Social Charter, as long as the strike aimed at labour-related issues (e.g. the retirement age) that were usually subject of negotiations between trade unions and employers. The fact that the employer affected by the strike may not be able to influence decisions of the Government had no impact on the court’s conclusion.

In contrast, forms of **flashmob action**, including **blockades**, that demonstrate no clear intention of bringing about a constructive process of collective bargaining are likely to fall outside the scope of Article 6(4) of the European Social Charter.

Actions which, according to the Supreme Court, are not covered by Article 6(4) of the Charter are subject to tort law.

4. Who may participate in a strike?

According to Article 6(4) of the European Social Charter, all workers have the right to take collective action, irrespective of whether they work in the private or the public sector. Nevertheless, recognition of the right to strike for public servants has been more controversial.

Public sector

- In 1978, the Netherlands entered a reservation on the application of Article 6(4) of the 1961 Charter, regarding the right to strike for public officials. However, the Central Court of Appeal, the highest Dutch court for public service cases, determined that the participation of civil servants in a collective work stoppage depended on the circumstances of the case and could potentially be lawful. Dutch law thus does not impose a direct prohibition but follows a casuistic approach regarding public servants' right to strike.
- There is one exception relating to military servicemen and women who are explicitly prohibited by statute from exercising the right to strike (see section 1 above). However, even in the armed forces, where military personnel have the right to organise and bargain collectively, collective action other than strike action may be permissible provided that it does not undermine the effectiveness of the armed forces.¹³
- The Dutch public service is an employment system. Civil servants do not have access to guaranteed career paths but generally enjoy good job security.
- Regarding civil servants, the European Committee of Social Rights noted in its Conclusions 2018 that the Netherlands revoked the restrictions with respect to the right to strike. This means civil servants now have a right to strike (Kingdom Act of 3 December 2014, published in the Bulletin of Acts and Decrees on 15 January 2015, no. 11, see section 7 below).¹⁴
- Since all strike action in the Netherlands must comply with procedural requirements (see section 5 below), the Supreme Court has not considered it necessary to define 'essential services' or distinguish them from non-essential services. Nonetheless, the Court has conceded that, if essential services (such as public transport or health services) were (threatened to be) affected by a strike, restrictions on the right to take collective action may be more urgently required. Therefore, in decisions rendered at last instance, the term has been used only once, while lower-level courts do occasionally make reference thereto. In Dutch legal literature, there have been calls highlighting the importance of defining minimum services for Dutch strike law.¹⁵
- 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'.¹⁶

5. Procedural requirements

- With regard to the application of Article 6(4) European Social Charter, the permissible restrictions on the right to strike are specified in Article G of the (Revised) Charter. This provision establishes a relatively high threshold: any limitation must be prescribed by law and must be necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of the public interest, national security, or public health or morals.
- According to the case law of the Dutch Supreme Court, the right to strike is subject to two important limitations. First, the call to strike must follow a number of procedural rules. Second, the strike action must not be disproportionate to the interests at stake.
- The procedural rules are designed to ensure that any lawful strike action in the Netherlands is commensurate with the standard of 'fair play'. This includes the principle that a strike should be an *ultimum remedium* in the collective bargaining process. The parties to a dispute must exhaust all other means of resolving the conflict before the trade union calls a strike as a last resort.

The Supreme Court has ruled that judges should exercise judicial restraint in determining whether a strike was called prematurely so as to grant trade unions a wide margin of manoeuvre regarding the decision to call a strike as a last resort. Legal scholars, however, have raised doubts about the limited extent of this judicial restraint, given that even the Supreme Court itself is considered to have defaulted on its own standard (*Douwe Egberts* ruling).¹⁷ Once the decision to call a strike has been taken, the opposing party must be informed about this decision as soon as possible so as to enable them to take precautionary measures in an effort to limit any damages that may result from such action.

- The purpose of the proportionality test is to protect the interests of others against (excessive) infringement. If the aim of the strike action is to influence the employer, then it is considered to be part of the employer's normal commercial risk that they will suffer damages because of a strike. A strike that is directed at another party (e.g. the government), however, may be regarded as disproportionate if the action is overly prolonged or causes structural and lasting damage to the employer. The burden of proof for such disruptive damage lies with the employer.

Moreover, damages inflicted upon third parties or the general public may render strike action disproportionate. A judge may then order the strikers to take measures to limit that damage if such measures are 'urgently required' – particularly in the case of strike action by (semi-)public servants in essential areas such as public transport or healthcare. A judge may furthermore decide to forbid only some elements of a collective action, while allowing other elements. A third party claim that a strike is 'disruptive to society' may often suffice for that action to be found to be disproportionate, without the need for extensive proof of damage.¹⁸

- These judicial practices of determining a strike's lawfulness and its proportionality afford Dutch judges considerable leverage over the exercise of the right to strike, even though this right should be a fundamental freedom for all trade unions and workers.

Therefore, at international level and in the literature, doubts were raised for quite some time as to what extent the Netherlands was meeting its international obligations under the (Revised) European Social Charter, in particular Article 6(4) (see below). The main criticisms related to the absence of any statutory safeguards under Dutch law that regulated the limits of possible court intervention in the right to strike.¹⁹

- In 2015, however, the Dutch Supreme Court revised its position and re-evaluated the role of procedural rules when determining the **lawfulness of strike action** (*Amsta* case).²⁰ The Court clarified that the conventional procedural rules are not intended to function as an obstacle in the assessment of the lawfulness of a collective action/strike. The judge must now consider *all relevant circumstances* when determining whether the action is lawful, while the procedural rules are to be regarded merely as part of the bigger picture. A **limitation** of the unions' and workers' right to strike is possible only if – in accordance with the criteria set out in Article G of the (Revised) Charter – such a restriction is considered urgently necessary. In any case involving an assessment of the lawfulness of a collective action, the Supreme Court has ruled that the following circumstances/criteria are to be taken into account:
 - the type and duration of the action,
 - the relationship between the action and its intended purpose,
 - the damage inflicted on the interests of the employer or others, and
 - the nature of these third-party interests and the (potential) damage caused.

When weighing up these factors, compliance with the **procedural rules** (last resort and duty of notification) may continue to be of (decisive) significance. Finally, the Supreme Court again emphasised that it is important to consider carefully whether the third parties affected by the collective action are persons with increased vulnerability (such as young people, disabled persons, the elderly and other persons who require special care). In such cases, it is vital to assess the extent to which the action is undermining the administration of care to these groups of persons, who may as a result be at risk of suffering damage to their mental or physical health. This approach is regarded as a constructive basis for assessing the lawfulness of collective action within the scope of Article G.

- Dutch law does not require that a **ballot** be held prior to industrial action being called.²¹
- There is no statutory system of **mediation**, conciliation or **arbitration** in industrial disputes, but some collective agreements provide for joint dispute resolution procedures.²²
- **Peace obligations** may be either explicitly inserted into a collective agreement (although they cannot be declared generally binding on other trade unions that are not party to the agreement) or presumed to form an implicit obligation of such an agreement. If the peace obligation is implicit, it is always a relative peace obligation pertaining to those issues contained in the agreement and not to subjects on which the parties did not agree.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- Employees on strike lose their entitlement to wages. Trade unions have funds to compensate partially for the loss of wages during a strike.
- Under Article 7:628 of the Dutch Civil Code, in the event of a regular strike organised by a trade union, workers who do not participate in the strike action are not entitled to remuneration, whereas non-participants retain the right to wages during unofficial (wildcat) strike action involving only a small number of participants.²³
- A worker may not be dismissed or be subject to any other disciplinary action for participating in a lawful strike.
- There have been no recent reports of the practice of lockouts in the Netherlands. Regarding strike breakers, see the comments of ILO CEACR (Direct Request adopted in 2017 on the application of ILO Convention 87) in section 7 below.

Participation in an unlawful strike

- An individual who is on strike may be considered to be in contractual default. However, even participants in an unlawful strike that is organised by a trade union are protected from contract termination, provided that they stop their strike once the judge has declared it to be unlawful.²⁴ The lawfulness of strike action is usually disputed in summary proceedings.
- Liability for damages resulting from the continuation of a banned strike may be imposed on the trade union(s) responsible for the strike action.
- Unlawful entry to private premises can be prosecuted under the Dutch Penal Code. However, the Court of Appeal has considered such unlawful entry to be covered by Article 6(4) of the European Social Charter in cases where it forms part of an organised collective action.²⁵

7. Case law of international/European bodies

United Nations Committee on Economic, Social and Cultural Rights (CESCR)

As of May 2021 there had been no recent observations of the CESCR relevant for the right to strike. In its Concluding observations on the sixth periodic report of the Netherlands (adopted at its 47th meeting, held on 23 June 2017), the CESCR noted:

B. Positive aspects

(...)

4. The Committee welcomes the legislative, institutional and policy measures taken to promote economic, social and cultural rights in the State party, including: (...)

(h) Amendments to the Civil Code, the Criminal Code and the Substantive Public Service Law Ordinance in Curaçao in 2014, easing restrictions on the right of public servants to strike and the removal of the ban on strikes by public servants in the revised Criminal Code of Aruba in 2014; (...)²⁶

International Labour Organisation

Decisions of the Committee of Freedom of Association (CFA)

Case No 3398 (Netherlands), complaint date: 22 December 2020 - Trade Union Federation for Professionals (VCP), Dutch Airline Pilots Association (VNV) and Dutch Society of Aviation Technicians (NVL)

The allegations and the Report No. 393 of March 2021 in this case remained **confidential** as of May 2021.

Previous relevant case:

Case No. 2905 (Netherlands), complaint date: 6 October 2011 – Netherlands Post Distribution Employers' Federation (WPN)

In its complaint, the WPN highlighted the complex implications of the chaotic nature of the liberalisation of the Dutch postal market.²⁷ The complainant alleged that, by means of Article 8 of the Postal Act and the ensuing decrees, the Government obliged the WPN to negotiate collectively and conclude a collective agreement with certain non-representative trade unions, and imposed a specific content for collective agreements. The complainant also alleged that the Government appointed a seemingly biased and partial mediator. In its conclusions, the CFA made the following recommendations to the ILO Governing Body:

(a) that the (Dutch) Government will ensure that any conciliation machinery or procedure for the settlement of disputes put in place in the future will respect the principles that such bodies should be independent and

perceived as such by the parties and that any recourse to them should be had on a voluntary basis; and

(b) that the Government keep it informed of the outcome of the procedure before the Court of Appeal with regard to the action on the merits against the State in which the complainant requested an order declaring the Decree to be non-binding.

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

There are no recent observations of the ILO CEACR relevant for the right to strike (on the application of ILO Convention 87 or ILO Convention 98).

- *In a previous Direct Request adopted in 2017 (published in 2018) regarding the application of Convention No. 87*, the CEACR requested the Dutch Government to provide its comments on the observations of three Dutch trade unions (the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP)) regarding the alleged use in practice of agency workers to break strikes.²⁸
- *In a previous Observation adopted in 2017 (published in 2018) regarding the application of Convention No. 98*, the CEACR requested the Dutch Government to provide its comments on the observations of three Dutch trade unions (the FNV, the CNV and the VCP) regarding alleged acts of intimidation against union members; alleged acts of anti-union discrimination against workers working through agencies, on zero-hour or short fixed-term contracts or as dependent self-employed; and the alleged undermining of the FNV's collective bargaining rights by allowing for collective agreements applicable to all workers to be concluded by less representative or yellow unions.²⁹

- **(Revised) European Social Charter**

- **Collective complaints under article 6(4) of the ESC**

There are currently no complaints lodged against the Netherlands either in relation to Article 5 or Article 6 of the Charter.³⁰

- **ECSR Conclusions**

In its **2014 Conclusions**³¹, the European Committee of Social Rights (ECSR) commented in detail on specific restrictions on the right to strike and procedural requirements in the Netherlands.

- In the past, the ECSR had continuously found the Netherlands in non-conformity with Article 6(4) of the Charter given the far-reaching discretion of the Dutch judiciary to ban (parts of) strike action for being premature. The Committee argued that this constituted an impingement on the very

substance of the right to strike, as this allowed the judge to exercise the trade unions' prerogative of deciding whether and when a strike is necessary (Conclusions XVII-1, XVIII-1). The ECSR also noted earlier that the Minister of Justice had referred the Committee's conclusion of non-conformity to the courts in order to inform the judiciary once again of the Committee's objections to court rulings on the exercise of the right to collective action (Conclusions 2010).

- Furthermore, the conditions for exercising the right to strike are not laid down in legislation but enshrined in the case law of the highest judicial authority, which is the Supreme Court. The ECSR demanded that the case law of domestic courts be closely examined to verify whether the courts rule in a reasonable manner and, in particular, whether their intervention does not reduce the substance of the right to strike so as to render it ineffective. A strike is considered to be illegal by Dutch courts if it undermines the rights of third parties or the general public to such an extent that restrictions to the right to strike become necessary for the interests of the society. In making their decision, the courts resort to a proportionality criterion by balancing the interests in the exercise of the right to strike against those which are infringed.

The Committee considered that the Dutch courts' use of the proportionality criterion did not in itself undermine the right to strike, as it is essential for determining whether a restriction is necessary in a democratic society, in accordance with Article G of the Charter.

- As for the reasonable nature of Dutch courts' intervention to the right to strike, the ECSR requested examples of case law demonstrating that the requirements of Article G of the Charter are taken into account when the courts are considering whether a strike is premature. The report provides two examples of court decisions rendered in interim injunction proceedings. In the first case concerning an industrial action in response to the Government's plan to raise the retirement age, the court decided that the action was within the scope of Article 6(4) of the Charter. In the second example, the court ruled by way of interim injunction proceedings that a strike by police officers was permissible because sufficient advance notice was given, there was no abuse of the monitoring and law-enforcement tasks of the police, and there was no risk to public order or national security.
- According to the Committee, the above-mentioned examples illustrate that the Dutch courts, when applying the proportionality test, are taking the provisions of Article G of the Charter into account in their decisions. The ECSR therefore considers that the situation is now in conformity with the Charter on this point. However, the Committee wishes to receive updated information on any new developments and case law of the courts with regard to this situation (see the 2015 case law of the Supreme Court referred to above).³²

Conclusions 2018³³

The Committee recalled that it had in the past found the situation in the Netherlands not to be in conformity with Article 6§4 of the Charter, based on the fact that a Dutch judge may determine whether recourse to a strike is premature and this constituting an infringement on the very substance of the right to strike, as this allows the judge to exercise the trade unions' prerogative of deciding whether and when a strike is necessary (Conclusions XVII-1, XVIII-1). However, the Committee observed in its previous conclusion (Conclusions 2014) that, based on examples, that the Dutch courts take into account the principles enshrined in Article G of the Charter in their decisions. The Committee therefore considered that the situation was in conformity with the Charter on this point, but requested updated information on any new developments and case law of the courts with regard to this situation (Conclusions 2014).

The report refers to the *Enerco* judgment (2014), where the Supreme Court interpreted the right to strike in broad terms and held that the trade unions are, in principle, free to decide on the nature of collective action, provided that the action they take can reasonably be assumed to be useful in furthering the exercise of their right to collective bargaining. The report also refers to the *Amsta* judgment (2015) where the Supreme Court ruled that although criteria such as 'timely notice' and 'first having exhausted all other possibilities' may still be applied, they are no longer sufficient in themselves to determine whether collective action is lawful. They may therefore be taken into account, but only in the context of a decision on whether or not article G of the Charter (serious social grounds) is applicable. According to the report collective action may be restricted only by article G of the Charter and not by rules laid down in previous cases.

Regarding **civil servants**, the Committee noted that the Netherlands revoked the restrictions with respect to the right to strike. This means civil servants now have a right to strike (Kingdom Act of 3 December 2014, published in the Bulletin of Acts and Decrees on 15 January 2015, no. 11).

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

The Committee finally concluded that the situation in the Netherlands was in conformity with Article 6§4 of the Charter.

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Notes

¹ Status of ratification by the Netherlands of UN instruments, available at:

<https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=en> (accessed on 30 May 2021).

² Status of ratification by the Netherlands of ILO conventions, available at:

http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102768 (accessed on 30 May 2021); 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, p. 72.

³ By means of a declaration, the country has recently confirmed the application of Article 6 to the Netherlands Antilles (Curaçao, Sint Maarten, the Caribbean part of the Netherlands and Aruba: declaration of 29 May 2017). Status of ratification of the 1961 Charter, available at: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/035/signatures?p_auth=F3KSQtYr (accessed on 31 May 2021).

⁴ Status of ratification of the Revised Charter, available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=vscrN96C (accessed on 31 May 2021); the Revised Charter applies only to the Kingdom in Europe according to the declaration contained in the instrument of acceptance.

⁵ Status of ratification of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, available at: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158/signatures?p_auth=F3KSQtYr (accessed on 31 May 2021); A declaration contained in the instrument of acceptance stated that: “The Kingdom of the Netherlands accepts the Protocol for the Kingdom in Europe.”; see also ETUI Report 105, p. 52; The Netherlands has not yet made a declaration enabling national NGOs to submit collective complaints.

⁶ Status of ECHR ratification, available at: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=ywvbQS9g (accessed on 31 May 2021).

⁷ Judgment of the Supreme Court (SC) of the Netherlands of 15 January 1960, NJ 1960, 84.

⁸ Judgment of the SC of 30 May 1986, NJ 1986, 688.

⁹ Waas, B., p. 414.

¹⁰ The notion of a strike, according to Dutch legal interpretation, can be defined as ‘a collective cessation of work activities by employees, for the purpose of forcing their employer or third parties to take certain actions, or to abstain from taking certain actions, with the intention of resuming work as soon as the desired results are achieved. Strikes may take place for a wide variety of reasons, but the most common reason concerns changes in working conditions.’ Warneck, W. (2007), *Strike rules in the EU27 and beyond: A comparative overview*, Report 103, Brussels: ETUI-REHS, p. 52.

¹¹ Waas, B., p. 417.

¹² Eurofound, ‘Living and working in the Netherlands’, Industrial action and disputes, 15 March 2021, <https://www.eurofound.europa.eu/fr/country/netherlands>.

¹³ Waas, B., p. 416.

¹⁴ ECSR, Conclusions 2018 on Article 6(4), <http://hudoc.esc.coe.int/eng?i=2018/def/NLD/6/4/EN>.

¹⁵ Waas, B., p. 416.

¹⁶ 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 Schlachter, M. ‘Regulating Strikes in Essential Services from an International Law Perspective’ in Mironi, M. and Schlachter, M (eds) 2019, *Regulating Strikes in Essential Services: A Comparative 'Law in Action' Perspective*, Netherlands: Wolters Kluwer International, pp. 29-50.

¹⁷ Waas, B., pp. 418-419.

¹⁸ Waas, B., p. 419.

¹⁹ 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. 126.

²⁰ Judgment of the SC of 19 June 2015, ECLI:NL:HR:2015:1687.

²¹ Eurofound, ‘Living and working in the Netherlands’, Industrial action and disputes, 15 March 2021, <https://www.eurofound.europa.eu/fr/country/netherlands>.

²² *Ibid*

²³ Waas, B., p. 424.

²⁴ Waas, B., p. 424.

²⁵ Waas, B., p. 425.

²⁶ Concluding observations available at

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fNLD%2fCO%2f6&Lang=e.

²⁷ Link to the CFA decision, Case No. 2905, 6 October 2011 –

http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3087133.

²⁸ Direct Request (CEACR) – adopted 2017, published 107th ILC session (2018), Convention No. 87, observations received on 31 August 2017,

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:3340329,102768,Netherlands,2017.

²⁹ Observation (CEACR) – adopted 2017, published 107th ILC session (2018), Convention 98, , observations received on 31 August 2017,

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:3342047,102768,Netherlands,2017.

³⁰ As of 30 May 2021; see the list of processed and pending collective complaints submitted to the ECSR:

<https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure>; and ESC, Country profile: the Netherlands, <https://www.coe.int/en/web/european-social-charter/netherlands>.

³¹ ECSR, Conclusions 2014 on Article 6(4), <http://hudoc.esc.coe.int/eng?i=2014/def/NLD/6/4/EN>.

³² The ECSR asks whether the judicial decisions on the legitimacy of strike actions rendered by Dutch courts are also applicable to the special Caribbean municipalities (Bonaire, Sint Eustatius and Saba).

³³ ECSR, Conclusions 2018 on Article 6(4), <http://hudoc.esc.coe.int/eng?i=2018/def/NLD/6/4/EN>.