



The right to strike in the public services

North Macedonia



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This factsheet reflects the situation in December 2020. It was elaborated and updated by Diana Balanescu (independent expert), reviewed by EPSU/ETUI and sent to EPSU affiliates for comment.

1. Legal basis

International level

The Republic of North Macedonia¹ has ratified:

UN instruments²

International Covenant on Economic, Social and Cultural Rights

(ICESCR, Article 8)

International Covenant on Civil and Political Rights

(ICCPR, Article 22)

(ratification on 18 January 1994)

ILO instruments³

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

(ratification on 17 November 1991)

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

(ratification on 17 November 1991)

Convention No. 151 concerning Labour Relations (Public Service)

(ratification on 22 July 2013)

Convention No. 154 concerning the Promotion of Collective Bargaining

(ratification on 22 July 2013)

European level

The Republic of North Macedonia has ratified:

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

with no reservations (ratification on 31 March 2005 and entry into force on 30 April 2005)⁴

And Article 6(4) of the Revised European Social Charter of 1996

(ratification on 6 January 2012 and entry into force on 1 March 2012)⁵

The Republic of North Macedonia has not yet ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints

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

(ratification and entry into force on 10 April 1997)⁶

National level

The Constitution of the Republic of North Macedonia

Article 38 of the Constitution of the Republic of North Macedonia⁷ guarantees the right to strike with some restrictions as follows: ‘The right to strike shall be guaranteed. The law may restrict the conditions for the exercise of the right to strike in the armed forces, the police and administrative bodies.’

Applicable laws

- **In general:** In its Chapter XX (Articles 236-245), the Law on Labour Relations (LLR)⁸ contains provisions setting out the right to strike. Article 236(1) of the LLR provides that ‘Trade unions and their associations at higher levels have the right to call and lead a strike in order to protect the economic and social rights of their members arising from the employment relationship in accordance with the law.’
- **Specific laws for certain sectors:** Article 245 of the LLR provides that: ‘Strikes in the armed forces, the police, state administration bodies, public enterprises and public institutions shall be set out by specific laws.’ It has been noted that, in accordance with Article 38 of the Constitution and Article 245 of the LLR, the right to strike is set out by specific laws for the armed forces, the police, state administration bodies, public enterprises and public institutions,⁹ e.g. the Defence Act, the Act on Service in the Army, the Police Act, the Act on Internal Affairs, the Act on Civil Servants, the Act on Public Enterprises, the Act on Public Servants, etc.
- **North Macedonian case law** is not very extensive. As indicated above, the right to strike is explicitly recognised by the Constitution and ordinary statutory law.

The role of **collective agreements** is to provide for measures to be taken during a strike in order to ensure that ‘minimum services’ are maintained. Article 238(1) of the LLR provides for ‘Rules applicable to activities which must not be interrupted during a strike’. Upon a proposal by the employer, the trade union and the employer agree on and adopt rules for maintaining production and essential activities which must not be interrupted during a strike (for a detailed analysis, see Section 4 below). Furthermore, the organisation of or participation in a strike held in accordance with the provisions of the LLR and the relevant collective agreement does not constitute a violation of the employment contract (Article 239 (1) of the LLR).

2. Who has the right to call a strike?

The right to call and lead a strike belongs to the trade union and its associations at higher levels in order to protect the economic and social rights of their members arising from the employment relationship.¹⁰

Trade unions and employers' associations can be founded without prior authorisation. They obtain legal personality upon registration. The registers of trade unions and employers' associations are kept by the Ministry of Labour and Social Policy. Applications for registration must include: the decision to establish the organisation; the minutes of the founding meeting; the statute; names of the founders and members of the executive body; the name of the person entitled to represent the organisation; and data on the number of members of the trade union based on paid membership. Once full documentation required by law is submitted by the trade union, in accordance with the procedures determined by the Ministry of Labour, the registration is either done immediately or within a maximum period of three days.¹¹

3. Definition of a strike

The Law on Labour Relations establishes the following types of strike action:

- A **strike called by trade unions** or trade union associations at higher levels in order to protect the economic and social rights of their members arising from the employment relationship (Article 236(1) of the LLR);
- A **solidarity strike** must be announced to the employer on whose premises it is to be organised.¹² A solidarity strike may begin even if the conciliation procedure has not been conducted, but not before the expiration of two days from the date of commencement of the strike in support of which the solidarity strike has been organised.¹³

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

4. Who may participate in a strike?

- According to the **Law on Labour Relations**, a worker is free to decide whether or not to participate in a strike and must not be forced to participate in or refrain from participating in a strike.¹⁴ A strike must be organised in such a way as not to prevent or hinder the organisation and running of the work process for workers who choose not to participate in the strike, nor to impede the entry of workers and managerial staff to the employer's business premises.¹⁵ The Law on Labour Relations also does not prohibit workers who are not trade union members from participating in a strike.¹⁶

- **Restrictions on the right to strike**

As mentioned above, Article 38 of the Constitution guarantees the right to strike with some restrictions as follows: 'The law may restrict the conditions for the exercise of the right to strike in the **armed forces**, the **police** and **administrative bodies**.'¹⁷

Article 245 of the Law on Labour Relations provides that: 'Strikes in the armed forces, the police, state administration bodies, public enterprises and public institutions shall be regulated by specific laws.'

- **Essential services/activities – general rules**

Under Article 238 of the Law on Labour Relations, upon a proposal by the employer, the trade union and the employer agree on and adopt rules applicable to the maintenance of production and essential activities that must not be interrupted during a strike.¹⁸

Such rules must contain provisions for the activities and the number of workers who must perform such activities during strike, for the purpose of enabling **continuation of the activities** after the termination of the strike (**maintenance of production activities**), that is, for the purpose of carrying out activities which are necessary in order to prevent the **threat to the life, personal safety or health of the citizens (essential activities)**.¹⁹ The Law on Labour Relations explicitly states that the determination of the activities referred to above must not hinder or substantially restrict the right to strike.²⁰

With regard to procedural aspects, if the trade union and the employer do not reach an agreement on the determination of the activities to be maintained within 15 days from the day on which the employer's proposal was submitted, the employer or the trade union may, within the subsequent 15 days, request that these activities be defined by an arbitration body.²¹

The Law on the **Peaceful Settlement of Labour Disputes** contains provisions regarding workers' right to strike in sectors of general interest.²²

Under Article 18 of this Law, in the event of a collective labour dispute or strike in sectors of general interest or where a work stoppage could jeopardise the life or health of people or cause large-scale damage, the parties to the dispute must immediately initiate a peaceful settlement of the dispute which shall be completed within 10 days of the submission of the proposal for peaceful settlement of the dispute.²³

Activities that are covered by this requirement are: electricity and water supply, transport, radio and television broadcasting services, where these are provided by the Republic of North Macedonia or local government, postal services, utilities, manufacturing of basic foodstuffs, health and veterinary care, education, child protection, social care, police and defence (Article 18 of the Law on the Peaceful Settlement of Labour Disputes).²⁴

It is of relevance that “**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.”²⁵

- **Rules for specific sectors**

The right to strike of **employees in the defence sector** is set out by the Law on Defence of 2001 and the Law on Military Service of 2010. Under Article 48 of the Law on Defence, strikes are prohibited in the Army during war and emergency situations, as well as in the case of the enforcement of international agreements relating to exercising, training, peacekeeping or humanitarian operations in the country or abroad involving units of the Army of the Republic of North Macedonia.

In the absence of any of the situations referred to above, a strike may be organised provided that: it is announced with at least 10 days' prior notice of its commencement; no more than 10% of the Army's personnel participate; it does not last longer than three days; and, for the duration of the strike, the employees on strike remain at their posts and perform their duties for the purpose of achieving the vital functions of the Army. Strikes in the army are allowed insofar as they do not affect the combat readiness of the Army and do not endanger the life and health of Army members.²⁶

During a strike in the Army, the Defence Minister and Chief of Staff are responsible for ensuring performance of all of the Army's vital functions.²⁷ It was noted that Article 167 of the Law on Military Service establishes that, during a strike, active military personnel are entitled to a salary in the amount of 60% of the salary received the previous month.²⁸

The right to strike of employees in the **police** and **Ministry of the Interior** is set out by the Law on Internal Affairs²⁹ (Articles 118-121) and the Law on Police³⁰ (Articles 106-108).³¹ The

Collective Agreement of the Ministry of the Interior also provides regulations on the right to strike.³²

Employees of the Ministry of the Interior must exercise their right to strike in such a manner and under such conditions that the regular execution of internal or police affairs is not impaired. In order to prevent any possible harmful consequences of the non-performance of internal affairs during a strike, the Minister or an authorised employee thereof is obliged to ensure the necessary functioning of the organisational units in the process of work. Employees must act in accordance with any orders, and if they fail to do so, the Minister of the Interior or an authorised employee thereof must ensure the completion of the work process by replacing those employees.³³

The organiser of a strike is obliged to announce the strike to the Minister and to submit the decision to begin a strike, as well as information regarding the manner and scope of performing the essential duties and tasks that must be performed during the strike, no later than seven days before the strike is due to begin. Tasks to be carried out during a strike include issuing citizens with personal documents (passports, IDs, driver's licenses) where urgently required, the organisation and servicing of telecommunications and information systems, and other tasks in accordance with specific legislation.³⁴

Pursuant to Article 121 of the **Law on Internal Affairs**, strikes are prohibited in the Ministry of the Interior in a military, emergency or crisis situation. In the event of a complex security situation, large-scale disturbance of public law and order, a natural disaster or epidemic, or large-scale endangerment of the life and health of people and property, no more than 10% of employees at the Ministry may participate in a strike, and a strike may not last longer than three days. In cases where a strike began before the occurrence of any of the conditions referred to above, employees of the Ministry must end the strike immediately.³⁵

Similar conditions and restrictions apply to **the police**.³⁶ Article 108 (1) of the Law on Police provides that police strikes are prohibited in case of war and emergency state. During a strike, workers are entitled to compensation in the amount of their basic salary.³⁷

For **employees of public enterprises**, the conditions under which a strike may be organised are prescribed by the Law on Public Enterprises³⁸.

Where a decision to strike is taken, the trade union must deliver a letter to the director at least seven days in advance of any strike action, notifying him of its intention to call a strike and specifying the reasons for and objectives of the strike. After delivery of the letter, representatives of the board of directors and the director must put forward a proposal to resolve the dispute and must inform the workers concerned and the general public of the proposal. If no agreement is reached within 15 days, the trade union may call a strike.³⁹

Finally, the trade union or strike committee must submit the decision to call a strike to the director of the public enterprise at least seven days before the commencement of the strike. The decision to strike must state the location, start date/time and duration of the

strike. Furthermore, the organiser of the strike must include a statement indicating the security measures to be taken in order to ensure the physical safety of employees and protection of equipment and installations, as well as the fulfilment of employees' **obligations towards citizens, legal persons and public authorities.**

Under Article 33 of the **Law on Public Enterprises**, workers of such undertakings have the right to strike but must fulfil their obligations towards the citizens, legal entities and state bodies so as not to jeopardise the life, health and economic and social security of the citizens, the performance of essential economic activities in the country and the implementation of international agreements. The head of the public undertaking prescribes which services may not be interrupted in the case of a strike.⁴⁰

It has been commented that the legal procedure that must be followed before employees of public enterprises are permitted to go on strike is both complicated and lengthy.⁴¹

The **Law on Civil Servants**⁴² stipulates that public sector employees have the right to strike provided that it is ensured a minimum uninterrupted performance of the functions of the institution and a necessary level of realization of the rights and interests of the citizens and the legal entities.⁴³ The manager of the institution, in accordance with the law and the collective agreement, determines the manner of performing the competencies, i.e. the activities of public interest of the institution during the strike, the number of employees who will perform the competencies during the strike, as well as the manner of providing the above mentioned conditions for the right to strike.⁴⁴

During a strike, the administrative officer is entitled to a salary in the amount of 60% of the salary he received the previous month.⁴⁵

5. Procedural requirements

- Strikes must not start prior to the completion of **conciliation and negotiation proceedings** as prescribed by Law or applicable collective agreement. The obligation to seek conciliation must not limit the right to strike when such a procedure is provided for by the Law on Labour Relations, that is, before the implementation of another procedure for peaceful settlement of the dispute agreed upon by the parties;⁴⁶
- In case of a dispute or **strike in essential services** (i.e. where the interruption of work may jeopardize the life and health of people or inflict major damage), parties to the dispute must immediately initiate a peaceful settlement of the dispute which shall be completed within ten days of the submission of the proposal for peaceful settlement of the dispute (see Section 4 above);⁴⁷
- A **solidarity strike** may be held even if the conciliation procedure has not been conducted, but not before the expiration of two days from the date of commencement of the strike in support of which the solidarity strike has been organised;⁴⁸
- **No balloting mechanisms** are applicable; the Law on Labour Relations does not specify any procedural requirements in this respect;⁴⁹
- A strike must be **announced in writing** to the employer or to the employers' association against which it is directed, whereas a solidarity strike must be announced to the employer on whose premises it is being organised.⁵⁰ There are no notification periods provided by law;
- The letter announcing the strike must state the **reasons** for the strike, the place where the strike will be held, and the date and time of its commencement;⁵¹ if one of these elements is omitted, then the employer against whom the strike is directed may apply to the competent authorities to challenge the legitimacy of the strike;⁵²
- A **fine** of € 1.200 is imposed on a trade union due to a failure to notify a strike, for initiating a strike without exhausting peaceful settlement proceedings and if the union fails to state the reasons of the strike, its date and time;⁵³
- A **minimum level of services** must be ensured for the maintenance of production activities and essential services (see Section 4 above);⁵⁴
- A worker must not, by any means, be coerced into participating in a strike;⁵⁵
- **No peace obligation** exists. The legislation does not provide for such obligation.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- According to the **Law on Labour Relations** (LLR), the organisation of or participation in a strike that is organised in compliance with the law and a collective agreement does not constitute a violation of an employment contract;⁵⁶
- Workers must not be discriminated against compared with other workers for organising or participating in a strike that is organised in compliance with the law and a collective agreement;⁵⁷
- For workers participating in a strike, the employer is obliged to pay contributions at the minimum base payment rate for employer contributions as laid down in specific regulations;⁵⁸
- The **strike organiser** (a trade union as indicated in Section 2 above) may, by its own means, provide compensation for the net salary of workers during the period they participated in the strike;⁵⁹
- **Lockout** - Employers may engage workers in a *lockout* only as a response to a strike already in progress.⁶⁰ The number of workers suspended from their jobs must not exceed 2% of the number of workers participating in the strike. The employer can suspend only those workers who, through their own conduct, incite violent and undemocratic behaviour which hinders negotiations between the workers and the employer. For those workers who are locked out, the employer is obliged to pay contributions at the minimum base payment rate for employer contributions as laid down in specific regulations;⁶¹
- A trade union may request the competent court to prohibit any **lockout** that is contrary to the provisions of the law;⁶²
- A trade union may claim **compensation for damages** suffered by this trade union or the workers as a result of a **lockout** organised and undertaken contrary to the provisions of the law.⁶³

Participation in an unlawful strike

- According to the **Law on Labour Relations**, an employee may be dismissed only if he/she has organised or participated in a strike that is not in compliance with the law or the applicable collective agreement, or if, during the strike, he/she has committed any other serious violation of the employment contract;⁶⁴
- The **employer** or association of employers may request the competent court to prohibit the organisation and conduct of a strike that is contrary to the provisions of the law;⁶⁵

- An employer may claim **compensation** for damage suffered as a result of a strike that is not organised and carried out in accordance with the LLR,⁶⁶
- As regards **court procedure**, any decision prohibiting a strike is taken by the competent court for labour disputes in the first instance. The court of first instance also decides on any requests by a trade union to prohibit a lockout. The procedure for requesting the prohibition of a strike or lockout is considered urgent.⁶⁷

7. Case law of international/European bodies

International Labour Organisation

Committee of Experts on the Application of Conventions and Recommendations (CEACR)⁶⁸

*Direct Request (CEACR) – adopted 2019, published 109th ILC session (2021)*⁶⁹

In its previous comments the Committee had noted that, under the Law on Public Enterprises and the Law on Employees in the Public Sector:

- (i) employees in the public sector are entitled to strike under the Constitution, the laws and the ratified international treaties;
- (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities and;
- (iii) in accordance with the applicable laws and collective agreements, the head of the respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike.

In this respect, the Committee had recalled that the maintenance of minimum services in the event of strikes should only be possible in certain situations, namely:

- (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term);
- (ii) other services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population;
- (iii) in public services of fundamental importance and;
- (iv) to ensure the security of facilities and the maintenance of equipment. A minimum service imposed should meet at least two requirements:
 - i. it must genuinely and exclusively be a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear and;
 - ii. since this system restricts one of the essential means of pressure available to workers to defend their interests, their organisations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities (see the 2012 General Survey on the fundamental Conventions, paragraphs 136 and 137).

The Committee welcomed the Government's indication that it will take appropriate measures to ensure compliance with the Convention of the provisions in the Law on Public Enterprises and in

the Law on Public Sector Employees. The Committee requested the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above, and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services).

In its preceding comment the Committee had requested the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, which oblige the school directors to provide for the realization of educational activities by replacing the striking employees when the educational activity is interrupted due to a strike.

The Committee noted the Government's indication that it started amending the articles concerned to align them with the Convention but observed that, subsequently, a new Law on Primary Education was published on 5 August 2019, including a similar provision to require the replacement of striking workers. Pursuant to section 50 (7), of the new Law on Primary Education, in case of a suspension of the educational and pedagogical work due to strike action, the principal of the primary school, upon receiving a previous consent by the Mayor, and by the Minister in the case of state primary schools, shall be obliged to ensure the performance of the educational and pedagogical work by substituting the striking workers for the duration of the strike action.

In this regard, the Committee had to recall that teachers and the public education services may not be considered an essential service in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and that provisions allowing for the replacement of striking workers are a serious impediment to the legitimate exercise of the right to strike. Regretting the lack of progress in this respect, the Committee once again requested the Government to amend the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary and secondary education sectors to effectively exercise their right to strike, as well to provide a copy of the amended legal texts once adopted.

European Social Charter

Collective complaints under article 6(4) of the ESC

North Macedonia has not yet ratified the Additional Protocol to the ESC providing for a System of Collective Complaints.

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

*Conclusions 2018 – North Macedonia – Article 6(4)*⁷⁰

Collective action: definition and permitted objectives

The Committee notes that there have been no changes to the situation under this heading which it previously found to be in conformity with the Charter.

Entitlement to call a collective action

The Committee notes that there have been no changes to the situation under this heading which it previously found to be in conformity with the Charter.

Specific restrictions to the right to strike and procedural requirements

The Committee previously noted that minimum service requirements are applicable in most of the public sector (Conclusions 2014). However it requested information on the role of trade unions in determining the minimum service to be provided.

The Committee notes that the sectors **in which the right to strike may be restricted are extensive and asks the next report to demonstrate that the restrictions satisfy the conditions laid down in Article G of the Charter. Meanwhile it reserves its position on this issue.**

Article 238 of the Labour Relations Law provides that the trade union and the employer shall prepare and adopt rules by mutual consent on the maintenance and indispensable works which must not be interrupted during the strike. However the requirement for a minimum service must not deny or substantially restrict the right to strike. If the trade union and the employer do not reach agreement within 15 days the employer or the trade union may demand that arbitration makes decision within the following 15 days.

The Committee asked for information on the procedure for determining a minimum service in the civil service and more particularly whether trade unions were involved. The report suggests that this matter is settled by collective agreement. The Committee asks whether in practice trade unions are consulted by the relevant Minister before determining the minimum service to be provided.

The Committee refers to its general question regarding the right of members of the police force to strike.

Consequences of a strike

The Committee notes that there have been no changes to the situation under this heading which it previously found to be in conformity with the Charter.

Conclusion

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

*Conclusions 2014 – North Macedonia – Article 6(4)*⁷¹

With regard to specific restrictions on the right to strike, the Committee previously asked whether there are any requirements that public enterprises providing essential services must maintain minimum services during a strike.

In this regard, the Committee noted that, under Article 238 of the Law on Labour Relations, following a suggestion made by the employer, he/she and the trade union must prepare and reach solutions to maintain productivity. It further noted that, pursuant to Article 33 of the Law on Public Enterprises, workers of such enterprises have the right to strike, but must fulfil obligations towards the citizens, legal entities and state authorities in order not to jeopardise the life, health and economic and social security of the citizens, the performance of essential economic activities in the country and the implementation of international agreements. The founder of the public undertaking prescribes which services must not be interrupted in the event of a strike.

The Committee recalled that the right to strike may be restricted provided that any restriction satisfies the conditions laid down in Article G which allows 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 the public interest, national security, public health or morals (Conclusions X-1 (1987), Norway).

The expression ‘prescribed by law’ means not only statutory law, but also the case law of domestic courts, if it is stable and foreseeable. Moreover, this expression includes the respect of fair procedures (*European Trade Union Confederation (ETUC)/Centrale Générale des Syndicats Libéraux de Belgique (CGSLB)/Confédération des Syndicats Chrétiens de Belgique (CSC)/Fédération Générale du Travail de Belgique (FGTB) v. Belgium*, Complaint No. 59/2009, Decision on the merits of the complaint, adopted on 13 September 2011, paragraphs 43-44). The Committee asked that the next report indicate whether the restrictions satisfy the conditions laid down in Article G.

8. Bibliography

- Clauwaert, S. (2016) 'The right to collective action (including strike) from the perspective of the European Social Charter of the Council of Europe', *Transfer*, Vol. 22(3), pp. 405-411.
- Clauwaert, S. and Warneck, W. (2008) Better defending and promoting trade union rights in the public sector. Part I: Summary of available tools and action points, Report 105, Brussels: ETUI (<https://www.etui.org/publications/reports/better-defending-and-promoting-trade-union-rights-in-the-public-sector>).
- Clauwaert, S. and Warneck, W. (2009) Better defending and promoting trade union rights in the public sector. Part II: Country reports, Report 108, Brussels: ETUI (<http://library.fes.de/pdf-files/gurn/00358.pdf>).
- Majhosev, A. and Denkova, J. (2013) 'The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia, Balkan Social Science Review, Vol 1 (2013), p. 101-114 (<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>).
- Novitz, T. (2017) The Restricted Right to Strike: "Far-Reaching" ILO Jurisprudence on the Public Sector and Essential Services, *Comparative Labour Law and Policy Journal*, 38(3/ p. 353-374.
- EUROFOUND, 'Living and Working in North Macedonia', Industrial action and disputes, 8 June 2018, available at: <https://www.eurofound.europa.eu/country/north-macedonia#industrial-action-and-disputes>.
- 5th National Report on the implementation of the European Social Charter submitted by the Government of North Macedonia, 17 January 2018, pp. 36-38, available at: <https://rm.coe.int/5th-national-report-from-the-former-yugoslav-republic-of-macedonia-/168077e39c>.
- ILO CEELEX (Central and Eastern European Labour Legislation database), North Macedonia, Country Profile 2019, available at : https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MKD,,2019 .
- EU Commission Report, North Macedonia, 6 October 2020, p. 83, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf.
- Venice Commission, Observatory on emergency situations, North Macedonia, available at: <https://www.venice.coe.int/files/EmergencyPowersObservatory/MKD-E.htm> .
- Council of Europe, Notifications under Article 15 of the Convention in the context of the COVID-19 pandemic, North Macedonia, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354>.
- COVID – 19 Health System Response Monitor, North Macedonia, available at: <https://www.covid19healthsystem.org/countries/northmacedonia>.

Notes

- 1 All references in this document are made to 'North Macedonia' as being the name of the state since February 2019.
- 2 Status of ratification of UN Treaties: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> (accessed on 17 December 2020).
- 3 Status of ratification of ILO conventions: http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103555 (accessed on 17 December 2020).
- 4 Status of ratification of the 1961 Charter: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/035/signatures?p_auth=85796KXD (accessed on 17 December 2020).
- 5 Status of ratification of the Revised European Social Charter of 1996 at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=ZPrR6Yru (accessed on 17 December 2020).
- 6 Status of ECHR ratifications available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL (accessed on 17 December 2020)
- 7 The Constitution of the Republic of Macedonia was adopted on 17 November 1991: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/36714/70972/F511737559/MKD36714%20Eng.pdf>.
- 8 The Law on Labour Relations of 2005 was published in the Official Gazette of the Republic of Macedonia No. 62/2005 and was subsequently amended; see consolidated version of 2018 (in English): <http://agrosindikat.org.mk/wp-content/uploads/2019/03/Labor-Relations-Law.pdf>.
- 9 See Andon Majhosev and Jadranaka Denkova, 'The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia', available at: <http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.
- 10 Article 236(1) of the Law on Labour Relations.
- 11 See ECSR, Conclusions XIX-3 (2010) and Conclusions 2014, Article 6(4), North Macedonia, available at: [http://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["MKD"\]}](http://hudoc.esc.coe.int/eng#{).
- 12 Article 236(2) of the Law on Labour Relations.
- 13 Article 236(4) of the Law on Labour Relations.
- 14 Article 239(4) of the Law on Labour Relations.
- 15 Article 236(6) of the Law on Labour Relations.
- 16 See ECSR, Conclusions 2014, Article 6(4), North Macedonia, available at: [http://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["MKD"\],"ESCDcIdentifier":\["2014/def/MKD/6/4/EN"\]}](http://hudoc.esc.coe.int/eng#{)
- 17 The Constitution of the Republic of Macedonia, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/36714/70972/F511737559/MKD36714%20Eng.pdf>.
- 18 Article 238(1) of the Law on Labour Relations.
- 19 Article 238(2) of the Law on Labour Relations; see also ILO CEELEX, North Macedonia, Country Profile 2019, Section 6.4.8 "Minimum service during strikes", available at : https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YE AR:MKD,,2019
- 20 Article 238(3) of the Law on Labour Relations.
- 21 Article 238(4) of the Law on Labour Relations.
- 22 Law on the Peaceful Settlement of Labour Disputes, 4 July 2007 (Official Gazette of the Republic of Macedonia 104/2014), available (in Macedonian) at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=76733.
- 23 See also ILO CEELEX, North Macedonia, Country Profile 2019, Section 6.4.4.2 "Essential services", available at : https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YE AR:MKD,,2019
- 24 See Andon Majhosev and Jadranaka Denkova, 'The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia', available at: <http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

25 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.

26 Article 48 of the Law on Defence; see also ILO CEELEX, North Macedonia, Country Profile 2019, Section 6.4.4 “Restriction of the right to strike in certain circumstances”, available at :

https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YEAR:MKD,,2019

27 Article 48 of the Law on Defence

28 See Andon Majhosev and Jadranaka Denkova, ‘The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia’, available at:

<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

29 Law on Internal Affairs, Official Gazette of the Republic of Macedonia No. 92/2009

30 Law on Police of 30.10.2006, as consolidated to March 2015, available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74682/119489/F-527041171/MKD74682%20Mkd%202015.pdf>

31 See Andon Majhosev and Jadranaka Denkova, ‘The Right to Strike: International and regional legal instruments with accent of legislation in Republic of Macedonia’, available at:

<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

32 See the relevant articles on the right to strike of the Collective Agreement of the Ministry of the Interior in the 5th National Report on the implementation of the European Social Charter submitted by the Government of North Macedonia, 17 January 2018, pp. 36-38, available at: <https://rm.coe.int/5th-national-report-from-the-former-yugoslav-republic-of-macedonia-/168077e39c>.

33 Article 118 of the Law on Internal Affairs and Article 285 of the Collective Agreement of the Ministry of the Interior.

34 Article 120 of the Law on Internal Affairs and Articles 286-287 of the Collective Agreement of the Ministry of the Interior.

35 See ECSR, Conclusions XIX-3 (2010), Article 6(4), North Macedonia; and Article 288 of the Collective Agreement of the Ministry of the Interior in the 5th National Report on the implementation of the European Social Charter submitted by the Government of North Macedonia, 17 January 2018, pp. 36-38, available at: <https://rm.coe.int/5th-national-report-from-the-former-yugoslav-republic-of-macedonia-/168077e39c>.

36 See ECSR, Conclusions XIX-3 (2010), Article 6(4), North Macedonia.

37 Article 289 of the Collective Agreement of the Ministry of the Interior in the 5th National Report on the implementation of the European Social Charter submitted by the Government of North Macedonia, 17 January 2018, pp. 36-38, available at: <https://rm.coe.int/5th-national-report-from-the-former-yugoslav-republic-of-macedonia-/168077e39c>.

38 Law on Public Enterprises, Official Gazette of the Republic of Macedonia Nos. 38/1996 as consolidated to August 2013, available at: <http://www.roads.org.mk/369/the-law-on-public-enterprises>

39 See ECSR, Conclusions XIX-3 (2010), Article 6(4), North Macedonia.

40 See ECSR, Conclusions 2014, Article 6(4), North Macedonia; see also Direct Request (CEACR) adopted 2019, published 109th ILC session (2021), Convention No. 87, 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:4015432,103555,North%20Macedonia,2019.

41 See Andon Majhosev and Jadranaka Denkova, ‘The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia’, available at:

<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

42 Law on Civil Servants of 3 February 2014 published in the Official Gazette No. 27/2014, available at:

https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=100919

43 Article 32(3) of the Law on Civil Servants.

44 Article 32(4) of the Law on Civil Servants.

45 Article 97 of the Law on Civil Servants.

46 Article 236(3) of the Law on Labour Relations; see also ILO CEELEX, North Macedonia, Country Profile 2019, Section 6.3.3 “Exhaustion of conciliation/mediation procedures prior to strike”, available at :

https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YE AR:MKD,,2019.

47 Article 18 of the Law on the Peaceful Settlement of Labour Disputes.

48 Article 236(4) of the Law on Labour Relations.

49 See also ECSR, Conclusions 2014 and XIX-3(2010), Article 6(4), North Macedonia.

50 Article 236(2) of the Law on Labour Relations.

51 Article 236(5) of the Law on Labour Relations.

52 See Andon Majhosev and Jadranaka Denkova, ‘The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia’, available at:

<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

53 Article 266 of the Law on Labour Relations; see also ILO CEELEX, North Macedonia, Country Profile 2019, Section 6.4.9 “Sanctions on illegal strikes”, available at :

https://www.ilo.org/dyn/ceelex/en/f?p=14100:1100:0::NO::P1100_ISO_CODE3,P1100_SUBCODE_CODE,P1100_YE AR:MKD,,2019.

54 Article 238(1) to (4) of the Law on Labour Relations.

55 Article 239(4) of the Law on Labour Relations.

56 Article 239(1) of the Law on Labour Relations.

57 Article 239(2) of the Law on Labour Relations.

58 Article 240 of the Law on Labour Relations.

59 Article 241 of the Law on Labour Relations. Under Article 236 of the LLR, trade unions have the right to organise a strike. It is therefore necessary for the trade union to set up a strike fund that will finance the salaries of employees who participate in a strike. In the Republic of North Macedonia, a number of trade unions have established such a fund (e.g. SONK, SIER, UPOZ, Trade Union of the Workers in the Agro-industrial Complex of Macedonia). See Andon Majhosev and Jadranaka Denkova, ‘The right to strike: International and regional legal instruments with accent of legislation in Republic of Macedonia’, available at:

<http://eprints.ugd.edu.mk/7401/1/The%20Right%20to%20strike%20%25281%2529.pdf>.

60 Article 237(1) of the Law on Labour Relations.

61 Article 237(1) to (4) of the Law on Labour Relations.

62 Article 243(1) of the Law on Labour Relations.

63 Article 243(2) of the Law on Labour Relations.

64 Article 239(3) of the Law on Labour Relations.

65 Article 242(1) of the Law on Labour Relations.

66 Article 242(2) of the Law on Labour Relations.

67 Article 244(1) to (3) of the Law on Labour Relations.

68 See Observations and Direct Requests of CEACR concerning the implementation of ILO Convention No. 87, in respect of North Macedonia, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20010> (accessed on 17 December 2020).

69 Direct Request (CEACR) adopted 2019, published 109th ILC session (2021), Convention No. 87, 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:4015432,103555,North%20Macedonia,2019.

70 ECSR, Conclusions 2018 on Article 6§4, North Macedonia, available at:

<http://hudoc.esc.coe.int/eng?i=2018/def/MKD/6/4/EN>.

71 ECSR, Conclusions 2014 on Article 6(4), North Macedonia, available at:

[http://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["MKD"\],"ESCDcIdentifier":\["2014/def/MKD/6/4/EN"\]}](http://hudoc.esc.coe.int/eng#{)