The right to strike in the public sector

Republic of North Macedonia

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This factsheet reflects the situation in November 2018 and was elaborated 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 Macedonia has ratified:

UN instruments\(^1\)

<table>
<thead>
<tr>
<th>International Covenant on Economic, Social and Cultural Rights</th>
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<tr>
<td>(ICESCR, Article 8)</td>
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<tr>
<td>International Covenant on Civil and Political Rights</td>
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<td>(ICCPR, Article 22)</td>
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ILO instruments\(^2\)

<table>
<thead>
<tr>
<th>Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise</th>
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<tr>
<td>(ratification on 17 November 1991)</td>
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<td>Convention No. 98 concerning the Right to Organise and to Bargain Collectively</td>
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<td>(ratification on 17 November 1991)</td>
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<td>Convention No. 151 concerning Labour Relations (Public Service)</td>
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<td>(ratification on 22 July 2013)</td>
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<td>Convention No. 154 concerning the Promotion of Collective Bargaining</td>
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<td>(ratification on 22 July 2013)</td>
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European level

The former Yugoslav Republic of Macedonia has ratified:

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<th>Article 6(4) (the right to collective action) of the European Social Charter of 1961</th>
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<td>with no reservations (ratification on 31 March 2005 and entry into force on 30 April 2005)(^3)</td>
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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)

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)
National level

The Constitution of the Republic of Macedonia
Article 38 of the Constitution of the Republic of Macedonia 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) contains provisions regulating the right to strike. Article 236(1) of the LLR provides that ‘The trade union and its associations at higher levels have the right to call and lead a strike in order to protect the economic, social and employment rights of its members 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 regulated 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 regulated by specific laws for the armed forces, the police, state administration bodies, public enterprises and public institutions, e.g. the Defence Act, the Act on Service in the Macedonian 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.

- **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 representative trade union and its associations at higher levels in order to protect the economic, social and employment rights of their members.7

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.8
3. Definition of 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, social and employment interests of their members (Article 236(1) of the LLR);

- A **solidarity strike** must be announced to the employer on whose premises it is to be organised. 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.

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.\(^{11}\) 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.\(^{12}\) The Law on Labour Relations also does not prohibit workers who are not trade union members from participating in a strike.\(^{13}\)

- **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**.’\(^{14}\)

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.\(^{15}\)

Such rules must contain, in particular, provisions concerning activities that must be performed and the number of workers who must perform them during a strike, with the aim of enabling the **restoration of work** immediately after the strike (‘the maintenance of production activities’), or with the aim of ensuring the performance of work which is essential for the prevention of **risk to life**, **personal safety** or the **health of the population** (‘essential activities’).\(^{16}\) The Law on Labour Relations explicitly states that the determination of the activities referred to above must not impair or substantially restrict the right to strike.\(^{17}\)

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.\(^{18}\)
The Law on the **Peaceful Settlement of Labour Disputes** (Official Gazette of the Republic of Macedonia No. 87/07) contains provisions regarding workers’ right to strike in sectors of general interest.\(^{19}\)

Under Article 18 of this Law, in the event of a dispute or strike in sectors of general interest or where a work stoppage could jeopardise the life or health of people or cause larger-scale damage, the parties are obliged to cooperate and resolve peacefully the collective dispute within 10 days of the request.

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 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).\(^{20}\)

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’.\(^{21}\)

- **Rules for specific sectors**
  - The right to strike of employees in the defence sector

The right to strike of **employees in the defence sector** is regulated 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 event of a state of military emergency, 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 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.

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. 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.\(^{22}\)
The right to strike of employees in the police and Ministry of the Interior

The right to strike of employees in the police and **Ministry of the Interior** is regulated by the Law on Internal Affairs (Articles 118-121) and the Police Act (Articles 106-108). The Collective Agreement of the Ministry of the Interior also provides regulations on the right to strike.

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.

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.

Pursuant to Article 121 of the **Law on Internal Affairs** (Official Gazette of the Republic of Macedonia No. 92/2009), 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.

Similar conditions and restrictions apply to the police. As regards restrictions, the Police Act regulates in the same way, except that strikes are not prohibited in crisis situations. During a strike, workers are entitled to compensation in the amount of their basic salary.

**The right to strike in public enterprises**

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.  

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.

Such measures must ensure that the necessary level of performance of the work process can be carried out without endangering the life, health and economic and social security of the citizens and the necessary development of economic and other activities in the country, to the extent and in the manner prescribed by law in the relevant area of public interest, while also ensuring the implementation of international agreements.

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 founder of the public undertaking prescribes which services may not be interrupted in the case of a strike.

The legal procedure that must be followed before employees of public enterprises are permitted to go on strike is both complicated and lengthy.

- The right to strike of civil servants

The Law on Civil Servants (Official Gazette of the Republic of Macedonia Nos. 59/2000 and 34/2001) stipulates that civil servants exercising their right to strike must ensure the ‘undisturbed operation of the functions of the authority/body’.

According to the Law on Civil Servants, civil servants are obliged, while exercising their right to strike, to provide minimum unobstructed fulfilment of the functions of the respective body, namely bodies of the state and local authority and other state bodies established according to the Constitution and the law. To ensure this minimum service, the minister governing the state body determines how the functions of the body are to be fulfilled during the strike as well as the number of civil servants required to fulfil these functions.
The right to strike of employees in health care

Health care workers may exercise the right to strike provided that the strike does not jeopardise the life and health of citizens seeking health care. In order to prevent the possible harmful consequences that could arise from a lack of health care for citizens during a strike, the management body of the health care organisation is obliged to provide emergency medical assistance and the minimum functioning of all organisational units responsible for its operation. To ensure the minimal operation of all of the health care organisation’s organisational units, employees are required to comply with the orders of the directors and the management board of the health care organisation.

Should any employees refuse to obey the orders issued by the management board, the director is obliged to ensure the normal operation of the organisation by replacing them with qualified substitute employees where appropriate. Non-compliance with the orders of the principal (i.e. the employer) by employees represents a violation of labour discipline, which by law is a basis for termination of employment.

If the governing body of the health organisation fails to implement measures to ensure compliance with the orders, the Government may introduce the following temporary measures: appointment of an acting director during the strike; recruitment of substitute workers needed to perform the activity; and any other measures that are required to ensure the health care of the citizens. The above measures will remain in place until the conditions that led to their introduction no longer exist (i.e. for the duration of the strike).
5. Procedural requirements

- A strike may not begin until the **conciliation procedure** has been completed in accordance with the Law on Labour Relations. 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 the peaceful settlement of the dispute agreed upon by the parties;\textsuperscript{38}

- 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;\textsuperscript{39}

- **No balloting mechanisms** are applicable; the Law on Labour Relations does not specify any procedural requirements in this respect;\textsuperscript{40}

- 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.\textsuperscript{41} 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;\textsuperscript{42} 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;\textsuperscript{43}

- **A minimum level of services** must be ensured for the maintenance of production activities and essential services (see Section 4 above);\textsuperscript{44}

- A worker must not, by any means, be coerced into participating in a strike;\textsuperscript{45}

- **No peace obligation** exists. The legislation does not provide for such an obligation.

- The **Law on the Peaceful Settlement of Labour Disputes** makes provision for a separate body at national level for conciliation, arbitration and mediation, but such a body has not yet been established.\textsuperscript{46}

- No data regarding the number of working days lost through industrial action per 1,000 employees are made available by the State Statistical Office.\textsuperscript{47} It has been noted\textsuperscript{48} that, as of 2004, the Law on Record-Keeping in the Field of Labour (Official Gazette of the Republic of Macedonia Nos. 16/04 and 102/08) introduced a legal requirement to keep a record of any strikes. Evidence of strikes is kept by the employer on whose premises the strikes occurred and by the association of the representative trade union.
The employer is obliged to submit annually these **records of strikes** to the State Institute of Statistics and to the association of the representative trade union. The Law on Record-Keeping provides for fines to be imposed on the employer and the director or other responsible representative of the employer in the event of their non-compliance with this requirement.49
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;\(^{50}\)

- 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;\(^{51}\)

- 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;\(^{52}\)

- 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;\(^{53}\)

- **Lockout** - Employers may engage workers in a *lockout* only as a response to a strike already in progress.\(^{54}\) 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;\(^{55}\)

- A trade union may request the competent court to prohibit any *lockout* that is contrary to the provisions of the law;\(^{56}\)

- 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.\(^{57}\)

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;\(^{58}\)
• 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;\textsuperscript{59}

• 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;\textsuperscript{60}

• 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. An appeal may be brought against the decision of the court of first instance.\textsuperscript{61}
7. Case law of international/European bodies on standing violations

ICECSR

In its concluding observations on the combined second to fourth periodic reports of the former Yugoslav Republic of Macedonia on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICECSR), the Committee on Economic, Social and Cultural Rights (CECSR) observed the following:

Trade union rights

35. The Committee is concerned at the restrictions on the right to strike in the Law on Labour Relations and other labour laws of the State party, including provisions that provide for the dismissal of a worker taking part in a strike that was already under way (art. 8).

36. The Committee recommends that the State party amend the Law on Labour Relations and other labour laws with a view to ensuring that these laws are fully in compliance with the Covenant and relevant ILO conventions and provide for full protection of the right to strike, taking into consideration the review of national labour laws that has been carried out in cooperation with ILO.

ILO

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


The Committee took note of the Law on Public Enterprises provided by the Government, together with the Government’s indications and the Law on Employees in the Public Sector, according to which:

(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 regard, the Committee recalled that the maintenance of minimum services in the event of strikes should be possible only 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 requested the Government to take, in consultation with representative public employee organisations, any necessary measures to ensure the respect of the principles recalled above for the determination of minimum services in public enterprises; and to provide further information concerning such determination in practice (in particular as to the types of activities and percentage of employees typically affected by a determination of minimum services, as well as the possibility for employee organisations to participate in the definition of the minimum services).

The Committee noted that the Law on Primary Education (Article 38(7)) and the Law on Secondary Education (Article 25(2)) provide that, when the educational activity is interrupted due to a strike, the director of the school concerned shall, upon prior consent from the competent authorities, be obliged to provide for the realisation of educational activities by replacing the striking employees.

The Committee recalled 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. The Committee requested the Government to amend Article 38(7) of the Law on Primary Education and Article 25(2) of the Law on Secondary Education, so as to remove the possibility of replacing striking workers and enable workers in the primary and secondary education sectors to effectively exercise their right to strike.
The Committee had previously noted that Article 238(4) of the Law on Labour Relations provides that, if no agreement could be reached on the minimum services, the employer or the trade union may demand that the arbitration makes the decision. The Committee had requested the Government to provide information on the arbitration referred to by Article 238(4) and, in particular, on the composition thereof.

In this respect, the Committee took due note that the Government indicated in its report that the arbitration referred to by Article 238(4) of the Law on Labour Relations is circumscribed in Articles 182 and 183 of the same Law that provide that, in the case of individual or collective disputes, the employer and the employee may agree to delegate the dispute settlement to a specific authority laid down by law (e.g. the Law on Mediation and the Law on the Peaceful Settlement of Labour Disputes) or to an arbitration panel if stipulated in the collective agreement.

**European Social Charter**

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

The former Yugoslav Republic of Macedonia did not yet ratify the Collective Complaints Procedure Protocol.

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

*Conclusions 2014 – the former Yugoslav Republic of Macedonia – Article 6(4)*

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.

*Conclusions XIX-3 – the former Yugoslav Republic of Macedonia – Article 6(4)*

The Committee took note of the applicable rules on strikes for employees of the police, the Ministry of the Interior and public enterprises and civil servants.

With regard to minimum services, the Committee noted that not every type of ‘work process’ can be interrupted during a strike. Therefore, the employer and the trade union must prepare and adopt rules for the maintenance of a minimum service in ‘necessary work processes’ that cannot be interrupted during a strike.

These rules must, in particular, contain the number of employees and the ‘work processes’ that must be maintained during the strike, with a view to enabling the resumption of work after the strike’s completion (manufacturing sustainability work processes), or rather with the aim of ensuring work that is essential with a view to protecting the lives, personal security or the health of the citizens (i.e. necessary job/work processes).

Nevertheless, according to the report, the right to strike cannot in any way be prevented or seriously restricted by requiring minimum services. Should the trade union and the employer fail to reach a settlement within 15 days from the date of the employer’s proposal to the trade union on the minimum services to be guaranteed, the employer or the trade union may request arbitration to make a decision within the subsequent 15 days.

The Committee asked for information on which sectors may be required to introduce a minimum service, as described above.
8. Bibliography

Notes

5 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 2015 (in Macedonian):
6 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.
7 Article 236(1) of the Law on Labour Relations.
8 See ECSR, Conclusions XIX–3 (2010) and Conclusions 2014, Article 6(4), ‘The former Yugoslav Republic of Macedonia’, available at:
http://hudoc.esc.coe.int/eng#{ESCArticle}:["06-04-000"],"ESCDcLanguage":|["ENG"],"ESCDcType":|"Conclusion"],"ESCStateParty":|["MKD"].
9 Article 236(2) of the Law on Labour Relations.
10 Article 236(4) of the Law on Labour Relations.
11 Article 239(4) of the Law on Labour Relations.
12 Article 236(6) of the Law on Labour Relations.
13 See ECSR, Conclusions 2014, Article 6(4), ‘The former Yugoslav Republic of 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"]).
14 The Constitution of the Republic of Macedonia, available at:
15 Article 238(1) of the Law on Labour Relations.
16 Article 238(2) of the Law on Labour Relations.
17 Article 238(3) of the Law on Labour Relations.
18 Article 238(4) of the Law on Labour Relations.
19 Law on the Peaceful Settlement of Labour Disputes, 4 July 2007 (Official Gazette of the Republic of Macedonia No. 87/2007), available (in Macedonian) at:
20 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.
21 Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Geneva, fifth (revised) edition, 2006, Chapter 10, paragraphs 581-627 – the Committee on Freedom of Association (CFA) lists the following as ‘essential services in the strict sense of the term’ where the right to strike may be subject to restrictions or even prohibitions: hospital and ambulance services, electricity services, water supply services, telephone services, the police and armed forces, firefighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools, and air traffic control. The Committee also states that restrictions on the right to strike in the above-mentioned services should be accompanied by compensatory guarantees. See also Clauwaert, S. and Warneck, W. (2008) Better defending and promoting trade union rights in the public sector. Part I: Summary of available tools and action points, Report 105, Brussels: ETUI, pp. 79-81.
22 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.
23 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.
26 Article 120 of the Law on Internal Affairs and Articles 286-287 of the Collective Agreement of the Ministry of the Interior.

27 See ECSR, Conclusions XIX-3 (2010), Article 6(4), ‘The former Yugoslav Republic of Macedonia’.


30 See ECSR, Conclusions XIX-3 (2010), Article 6(4), ‘The former Yugoslav Republic of Macedonia’.


34 See ECSR, Conclusions XIX-3 (2010), Article 6(4), ‘The former Yugoslav Republic of Macedonia’.

35 See ECSR, Conclusions 2014, Article 6(4), ‘The former Yugoslav Republic of Macedonia’; the Committee asked ‘whether workers or their representatives are involved in the decision-making process’.


37 Article 236(3) of the Law on Labour Relations.

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

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

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


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

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


45 EUFOUND, idem.


47 Idem.

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

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

50 Article 240 of the Law on Labour Relations.

51 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 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.

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

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

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

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

56 Article 243(3) of the Law on Labour Relations.

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

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

59 Article 244(1) to (3) of the Law on Labour Relations.
Adopted the following concluding observations at its 49th meeting, held on 24 June 2016: available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fc.12%2fMKD%2fCO%2f2-4&Lang=en.


Direct Request (CEACR) adopted 2016, published 106th ILC session (2017), available at:

Direct Request (CEACR) adopted 2010, published 100th ILC session (2011), available at:

See ECSR, Conclusions 2014 on Article 6(4) – the former Yugoslav Republic of 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"}.

The next assessment by the ECSR of the monitoring procedure for application of the European Social Charter corresponds to cycle XXI-3 (2018).

See ECSR, Conclusions XIX-3 (2010) on Article 6(4) – the former Yugoslav Republic of Macedonia, available at:
http://hudoc.esc.coe.int/eng#{"ESCArticle":06-04-000","ESCDcLanguage":"ENG","ESCDcType":"Conclusion","ESCStateParty":"MKD","ESCDcIdentifier":"XIX-3/def/MKD/6/4/EN"}.