The right to strike in the public services

Norway

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Contents

This factsheet reflects the situation in June 2021. It was elaborated by Andrea Iossa (independent expert), updated by Diana Balanescu (independent expert) and reviewed by EPSU/ETUI; comments received from the Norwegian (EPSU) affiliate LO-Norway were integrated.

1. Legal basis

International level

Norway has ratified:

UN instruments[1]

International Covenant on Civil and Political Rights
(ICCPR, Article 22) (incorporated into national law with the Human Rights Act (No. 30 of 1999))
International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 8)
with reservations regarding Article 8(d) on the right to strike[2] (incorporated into national law with the Human Rights Act (No. 30 of 1999)).

ILO instruments[3]

Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise
ratified on 4 July 1949;
Convention No. 98 concerning the Right to Organise and to Bargain Collectively
ratified on 17 February 1955;
Convention No. 151 concerning Labour Relations (Public Service)
ratified on 19 March 1980
Convention No. 154 concerning the Promotion of Collective Bargaining
ratified on 22 June 1982

European level

Norway has ratified:

The (Revised) European Social Charter[4]
on 7 May 2001, including Article 6(4) - the right to collective action;

The Additional Protocol to the European Social Charter Providing for a System of Collective Complaints[5]
(ratified on 20 March 1997);

The European Convention on Human Rights[6]
(ratified on 15 January 1952, including Article 11 on the right to freedom of assembly and association, and it has incorporated it into national law (Human Rights Act (No. 30 of 1999)).

National level

The Constitution of Norway

The Constitution of Norway makes no reference to the right to strike. However, the Norwegian Supreme Court found in the Holship case (HR-2016-2554-P) that the right to freedom of association according to Section § 101 in the Constitution is framed after article 11 in the ECHR. Section § 101 therefore protects the right to strike to the same extent as article 11 ECHR does.

Applicable law(s)

- Rules on the exercise of the right to strike and other forms of collective action are included in the Act on Labour Disputes (LDA) (No. 9 of 2012).
- Rules on the exercise of the right to strike and other forms of collective action in the public sector are included in the Act on Public Service Labour Disputes (PSLDA) (No. 2 of 1958) (Chapter V).
- The Labour Court has jurisdiction to assess the lawfulness of strikes and collective action in relation to a breach of the peace obligation and disregard for procedural requirements.[7]
- As a **general rule**, the entry into force of a collective agreement entails a peace obligation between the parties. Basic Agreements (periodically re-negotiated, usually every four years) exist between the major trade union confederations and the employers' associations in several sectors, including the public sector. The Basic Agreements contain rules on the peace obligation, mediation and other procedural requirements that must be met before calling for strike/collective action.

2. Who has the right to call a strike?

Any trade union or employee association is entitled to call for strike action. This entitlement derives from the broad definition of 'trade union' provided in the Labour Disputes Act, according to which any federation of employees acting for the purpose of safeguarding the employees' interests vis-à-vis their employer is to be considered as a trade union (*fagforening*).[8] Limitations to this general rule can be introduced in exceptional cases by collective agreements.

3. Definition of strike

The **Labour Disputes Act** and the **Public Service Labour Disputes Act** make an explicit distinction between 'disputes over rights' and 'disputes over interests'.[9] Strikes and other forms of collective action are not allowed in the case of 'disputes over rights', i.e. regarding violations and/or the interpretation of collective agreements in force.

Chapter 1 Section 1(f) of the Labour Disputes Act defines the strike as a 'full or partial stoppage of work implemented by employees acting jointly or in concert in order to force resolution of a dispute between a trade union and an employer or employers' association'. The provision goes on to state that 'Any action to block a company's premises in order to prevent the labour force from working is also considered to be part of a strike.' The definition is open-ended and includes forms of collective action other than strikes, such as 'overtime bans' and 'work-to-rule' and 'go-slow' action.[10]

Chapter 1 Section 1(g) of the Labour Disputes Act defines the lockout as a 'full or partial stoppage of work implemented by an employer in order to force resolution of a dispute between an employer or employers' association and a trade union, regardless of whether other employees are hired to replace those locked out'. The provision goes on to specify that 'Preventing the locked out employees from acquiring other work is also considered to be part of a lockout.'[11]

Sympathy strikes are permitted in support of a primary strike that is not unlawful.[12] The Public Service Labour Disputes Act makes the participation of public employees in sympathy action dependent on the collective agreement for the public sector.[13]

Political strikes are permitted and fall outside the scope of peace obligation clauses. The case law of the Labour Court has specified that a political strike must be of brief duration, and notice of such action must be given to the employer (no other specific procedures apply).[14]

The right to exercise a **boycott**, another relevant form of collective action in labour disputes, is governed by a specific law: the Act on Boycotts No. 1 of 1947. According to this Act, a boycott is an invitation, agreement or similar measure aiming at hampering the financial relationship that exists between an individual or a business and others.

The Act regulates the situations in which a boycott may be called. A boycott is often used as a tool in support of a strike or blockade. In addition, to fulfil the legal definition of a boycott, the aim must encompass the intention to harm, punish or put pressure on this person or business – the so-called "double intention-requirement". It should also be noted that there are separate material requirements for a boycott to be considered lawful, such as proportionality between ends and means.

4. Who may participate in a strike?

Participation in a strike and collective action is not dependent on union membership.

Public sector

- There are no laws prohibiting specific categories of **public employees** from exercising the right to strike. The Basic Agreement for the Civil Service (*Hovedavtalen i staten*) states that the chief executive and head of the personnel function of state institutions or agencies (including universities) and public-owned companies are not permitted to strike. It is also commonly provided that senior government officials (*embedsmenn*) may not go on strike, nor may members of the armed forces or employees of the Storting, the Norwegian Parliament.

  Police officers were granted the right to strike in 1995 with the entry into force of the new Police Act. Section 22(5) of the Public Service Disputes Act prohibits senior civil servants and other civil servants from engaging in work stoppages.[15]

  Under Section 26a of the Public Service Disputes Act 1958, "[i]f mediation has been undertaken in a dispute involving civil servants who have no right to resort to stoppage of work, and the mediation has failed, the mediator who has conducted the mediation proceedings shall, within three days after the end of the mediation, notify the Chairman of the National Wages Board. The Board adjudicates the dispute with binding effect for the parties concerned." Disputes involving senior civil servants and other classes of civil servants are also resolved through compulsory arbitration.[16]

- There are no restrictions on the forms of collective action that may be lawfully undertaken by public employees.

- There are no statutory or legal definitions of '**essential services'** or **'essential sectors'**. However, the Government can request Parliament to issue a special act to stop or prohibit a strike by referring the dispute to the National Wage Board (*Rikslønnsnemnda*) for compulsory arbitration, if it is deemed that the action seriously threatens or may seriously threaten a vital (but also economic) interest of society.[17]

  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'.[18]

- There are no statutory provisions or legal requirements regarding the establishment of **'minimum services'** in the event of a strike. Collective agreements may lay down such rules.

5. Procedural requirements

- The right to use industrial action is limited to conflicts of interests and where the dispute has been mediated.[19]

- The party that intends to **commence strike action** must give written notice to the other party at least 14 days in advance, unless otherwise provided by a collective agreement.[20] The written notice must also be sent to the National Mediator (*Riksmekleren*) or a district mediator and include information about the strike or collective action, such as the companies concerned and the number of employees covered by the notice.[21] No ballot is required to call a strike.

- The **mediator** may, within two days of receiving the notice, temporarily prohibit the party from implementing a strike or collective action that may harm the public interest.[22] Consequently, the mediator calls on the parties to the dispute to engage in compulsory mediation, and he/she can make (non-compulsory) proposals to end the dispute. Either party is entitled to request termination of the ban – and thus the mediation process – 10 days after it was issued.[23] The mediator may not prolong the ban. If no agreement is reached, the strike or collective action can be implemented according to the terms laid down in the notice.

- According to the Public Service Labour Disputes Act, the parties have a legal obligation to **negotiate** before resorting to collective action. If negotiations fail, the mediator must immediately be informed thereof, and compulsory mediation will commence within 14 days of the date of the notice. The mediator may also oblige the party to submit the mediation proposal to a ballot.[24] On expiry of the 14-day period, either party is entitled to request termination of the mediation process within a period of one week.[25] Therefore, the 'cooling-off' period for meditation in the public sector lasts for 21 days in total.

- Any dispute concerning public employees who are not permitted to go on strike is referred to the National Wage Board.[26]

- The **peace obligation** applies to collective agreements in force[27], but disputes over matters not regulated by a collective agreement do not fall within the scope of the peace obligation.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- For the duration of a strike or collective action, the employment contract is formally terminated, but, in practice, it is merely suspended. Workers are exempted from contractual obligations and may cease working, but they are entitled to return to work after the strike has ended.[28] In order to be considered lawful, however, participation in a strike or collective action is dependent on the notice of collective work stoppage (*plassoppsigelse*) to terminate an individual's employment contract for the purpose of implementing a strike or lockout.[29] This is usually communicated to the employer when the strike notice is given by the trade union.

- Workers on strike are not entitled to receive pay.

- Compensation for loss of wages is provided by means of financial support from trade unions.

- There are no legal provisions prohibiting the use of **strike breakers** to replace workers who are on strike in the public sector, but such a practice would be considered a gross violation of industrial relations standards. As a general rule, the employer may not ask non-striking employees to perform the tasks of striking workers, and those employees are also entitled to refuse to cooperate. However, there is an obligation to perform any work tasks necessary to prevent immediate danger to life or health or material losses.

Participation in an unlawful strike:

- As a general rule, employers who have been subject to an unlawful strike or collective action are entitled to receive compensation for damages only with respect to the economic loss caused by that action.

- Individual liability applies in the case of unlawful collective action.[30] However, the individual liability of workers taking part in an unlawful strike or collective action applies only if the action has not been called by a trade union (i.e. wildcat strikes). In such cases, the amount of damages to be paid is reasonably set by the Labour Court. Participation in an unlawful strike constitutes a breach of the employment contract, which in serious circumstances may give rise to a right of summary dismissal for the employer.[31]

- The trade union responsible for organising an unlawful strike or collective action is in breach of the collective agreement and is liable for economic damages.[32] The organisation's liability can also derive from refusing to comply with the obligation to end the action. The Labour Court sets the amount of the compensation in accordance with the criteria laid down in the Labour Disputes Act, such as the magnitude of the damage, the financial capacity of the liable party and the circumstances of the injured party.[33]

- Section 15-17 of the Working Environment Act (No. 62 of 2005) excludes the suspension of the employment contract for participating in a strike from the scope of the rules on dismissal.[34] Accordingly, participation in a lawful strike can never be a ground for dismissal.

7. Case law of international/European bodies

International Labour Organisation[35]

Decisions of the Committee on Freedom of Association (CFA):

Case No. 3372 (Report No. 392, October 2020)[36]

The CFA noted that the complainant in this case, the NNO (Norwegian Nurse's Association), alleged the adoption of a legislation to end a legal strike and the use of compulsory arbitration to resolve the dispute between it and the NHO (Confederation of Norwegian Enterprise)/ NHOSH (Norwegian Federation of Service Industries and Retail Trade) concerning the terms and conditions of Agreement 527. The NNO further alleged that the Government did not implement the CFA's conclusions in the 12 cases concerning Norway raising similar issue of legislative intervention in the collective bargaining process. It also alleged that the National Wage Board lacks guarantees of independence and impartiality.

The CFA recalled that in the past, it had dealt on multiple occasions with cases concerning compulsory arbitration in Norway, which was imposed in non-essential sectors through legislative intervention in the collective bargaining process thereby ending strike action. The present case was different to the extent that the Government argued to have intervened and imposed compulsory arbitration in services, the interruption of which would endanger the life and health of the patients of the affected private providers of health services. The CFA further noted that the NNO recognized that some of the consequences may indeed have endangered the life or health in respect of certain businesses, but argued that several businesses were not essential services. The Government admitted that it only intervened after the NHOSH declared a lockout of 65 health services companies and 445 NNO members; a situation which had been judged by the Norwegian Board of Health Supervision to endanger the life and health of the patients in the industry [para. 855].

The CFA recalled that compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, that is, in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population [see Compilation of decisions of the Committee on Freedom of Association, sixth edition, 2018, para. 816]. While noting that in Norway, workers in health services enjoy the right to strike and that a strike by a number of NNO members in at least seven health services companies was considered not to result in a situation where the life and health of patients was endangered, the Committee observed that it was only once the lockout was declared that all companies providing health services (including those which were initially considered to be non-essential) were treated as essential.

In this regard, the CFA recalled that, in other cases concerning Norway, it had expressed its concern at the complainants' statements that the notification of a full lockout by an employers' organization in response to a strike notice constituted the employers' "application" for compulsory arbitration, which was almost immediately accepted by the Government [see Cases Nos 3038, 372nd Report, paras 470 and 2545, 349th Report, paragraph 1151]. The CFA noted

nevertheless that in this present case the NNO represents nurses and midwives and recalled its considerations that the hospital sector is an essential service [see Compilation, para. 840]. In the case of Norway where the legislation permits industrial action in the hospital sector or health services, the assessment of any risk justifying restrictions on the otherwise lawful industrial action is within the Government's prerogative.

The Committee therefore considered that the termination of the strike and lockout in the health services by the Norwegian Parliament did not constitute a violation of ILO principles on freedom of association. [para. 856]

Case No. 3147 (Report No. 378, June 2016)

This case concerns the compulsory mediation imposed by the Norwegian Government in a dispute concerning the laundry and dry-cleaning sector. The intervention was based on the risk that a strike would affect services provided to certain **health institutions** (hospitals, etc.). The dispute began in 2014, during the negotiations for a new collective agreement between the trade union Industri Energi (IE), affiliated with the LO confederation, and the employers' organisation, the Confederation of Norwegian Enterprise (NHO). After the failure of the collective bargaining and voluntary mediation processes, the Government terminated the ensuing strike by adopting a procedure for compulsory mediation, thereby referring the dispute to the National Wage Board, which laid down the terms of a new collective agreement.

In this respect, the CFA recalls that restrictions on the exercise of a legitimate strike can be imposed only as an exceptional measure and, in the lights of the previous complaints about the use of compulsory mediation, encourages the Government to discuss with the social partners 'possible ways of ensuring that basic services are maintained in the event of a strike, the consequences of which might endanger the life or health of the population'.[37]

Case No. 3038 (Report No. 372, June 2014)

This case concerns the compulsory mediation imposed in 2012 by the Government in order to terminate a strike in the oil and gas sector. The dispute began in 2012 and arose during the negotiations for several new collective agreements on the working conditions on oil and gas platforms in the North Sea between Industri Energi (IE), affiliated with the LO, and the Confederation of Organised Workers in the Energy Sector (SAFE), affiliated with the Confederation of Vocational Unions (YS), of the one part, and the Norwegian Oil and Gas Association (OLF) of the other part. As a result of the failure of the collective bargaining process and of the ensuing voluntary mediation, the trade unions called for strike action. In response, the employers' association gave notice of a general lockout in the sector.

Owing to the serious consequences that such action would have had for the national economy (heavily dependent on oil and gas production), the Government intervened by initiating a procedure for compulsory mediation. While expressing sensitivity to the arguments put forward by the Government, the CFA observes that, in the case of strikes affecting sectors that, albeit not necessarily essential in the strict sense of the term, are very important for the national economy, it would be desirable that the parties and the Government agree on a minimum service level in the sector rather than resorting to compulsory mediation.

In its final recommendations, the CFA 'firmly expects that, in the future, the Government will make every effort to refrain from having recourse to legislation imposing compulsory arbitration' for industrial action in sectors in which there is 'no clear and imminent threat to the life, personal safety or health of the whole or part of the population'.
Therefore, the CFA 'encourages the Government to examine the possibility of introducing a minimum service in the oil and gas sector in the event of industrial action, the scope or duration of which may result in irreversible damages'.[38]

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

There are no recent comments of the ILO CEACR concerning the application of Convention 87.[39]

In previous comments, the ILO CEACR noted the following:

Direct Request (CEACR) – adopted 2010, published 100th ILC session (2011)

The Committee notes the comments submitted by the Confederation of Norwegian Enterprise dated 3 September 2010. Articles 3 and 10 of the Convention. In its previous observation, the Committee had recalled that, over the years, it had referred to the need to limit the possibility of imposing compulsory arbitration to the essential services in the strict sense of the term or to public servants exercising authority in the name of the State. The Committee had noted that the Government indicated in its report that governmental intervention in strikes can only take place if the Norwegian Parliament (Stortinget) adopts a law and that this does not happen with regard to any collective labour dispute at the discretion of the public authorities, but rather after a careful evaluation of the impact of a strike on the life, health or personal safety of the population.

The Committee had therefore requested the Government to provide information on any decisions by the Parliament imposing compulsory arbitration. The Committee notes that the Government indicates in its report that compulsory arbitration has been imposed in two conflicts during the period under review: the first intervention was made by Parliament Act No. 111 of 4 December 2009 to end a strike in the health sector concerning air ambulance pilots and the second intervention was made by Parliament Act No. 6 of 26 March 2010 to end a strike related to the establishment of a collective agreement in enterprises within health care, mainly nursing homes; and that both Acts were adopted after mediation procedures were conducted, without any result, and after the health surveillance authorities considered that the announced strikes would endanger the life and health of the population.

Observation – adopted 2008, published 98th ILC session (2009)

In its Observation, the CEACR comments on the repeated use by the Government of compulsory mediation in labour disputes. Although the Government argued that the procedure for compulsory mediation involves Parliament and that it therefore does not happen at the discretion of the public authorities, the CEACR noted that compulsory mediation has been used in sectors that do not concern essential services in the strict sense of the term, such as the oil and gas sector, and the insurance and financial sector. In this regard, the CEACR 'invites the Government once again to ensure that compulsory arbitration through legislative intervention is imposed only in cases where the life, personal safety or health of the whole or part of the population is threatened

or where the strike concerns public servants exercising authority in the name of the State, and requests the Government to continue to provide information on any decisions by Parliament imposing compulsory arbitration'.[40]

European Court of Human Rights

In the case of **Norwegian Confederation of Trade Unions (LO) and Norwegian Transport Workers' Union (NTF) v. Norway** (application no. 45487/17), the European Court of Human Rights held, unanimously, that there had been **no violation of Article 11** (freedom of assembly and association) of the European Convention on Human Rights.[41]

The case concerned a domestic court judgment ruling a proposed boycott organised by NTF of a shipping firm by union dockworkers unlawful. The boycott had been in opposition to a shipping firm, Holship Norge AS, employing dockworkers outside of a collective framework agreement which had pertained in the port of Drammen. The Court found overall that the Supreme Court of Norway's refusal to authorise the boycott had remained within its wide margin of appreciation and that it had advanced relevant and sufficient grounds to justify its final conclusion in the particular circumstances of this case and given its characterisation of the nature and the purpose of the proposed boycott. However, the Court emphasised that, from the perspective of Article 11, **EEA freedom of establishment is not a counterbalancing fundamental right to freedom of association** but rather one element, albeit an important one, to be taken into consideration in the assessment of proportionality.[42]

According to the Press Release of 10 June 2021, the Court found that the boycott had sought to protect at least in part the occupational interests of union members in a manner which fell within the scope of Article 11 of the Convention and that that provision was accordingly applicable In addition, it was not contested that there had been an restriction of the trade unions' rights owing to the declaratory judgment finding it unlawful. The Court also declared that the 1947 Boycott Act had provided a sufficient legal basis for the Supreme Court's judgment.

The question was thus whether the restriction flowing from the judgment had been necessary in a democratic society. The Court reiterated that the purpose of Article 11 was to protect the individual against arbitrary interference by the authorities, but that there could in addition be obligations on the State to secure the effective enjoyment of such rights. For the Court, the Supreme Court had engaged in an assessment of the fundamental right to collective action relied on by the applicant unions and the economic freedom under EEA law on which the employer had relied. It had ruled that the boycott had to be, among other things, reconciled with the rights that follow from the EEA Agreement and a fair balance had to be struck between these rights.

The Court noted that it was clear from the Supreme Court's judgment that its factual characterisation of the boycott – a means to compel acceptance of a right of priority engagement and notably with the desired effect being to limit the access of other operators to the market for loading and unloading services – had been central to its finding that such a fair balance had, in the particular circumstances of that case, been struck. On the basis of the material before it and given the findings of fact and domestic law by the domestic court, the Court considered that the latter had acted within the margin of appreciation afforded to it in this area when declaring the boycott unlawful. Accordingly, there had been no violation of the Convention in the particular circumstances of this case.

The Court did however consider it necessary, given the manner in which the domestic court had effected the balancing, to note that it accepted that protecting the rights of others granted to them by way of EEA law could justify restrictions on rights under Article 11 of the Convention. However, when implementing their obligations under EU or EEA law, the Contracting Parties had to ensure that restrictions imposed on Article 11 rights did not affect the essential elements of trade union freedom, without which that freedom would become devoid of substance. It added that while it was primarily for the national courts to interpret and apply domestic law, if necessary in conformity with EU or EEA law, EEA freedom of establishment was not a counterbalancing fundamental right to freedom of association but rather one element, albeit an important one, to be taken into consideration in the assessment of proportionality under Article 11.[43]

(Revised) European Social Charter:

Collective complaints under article 6(4) ESC

No collective complaints have been submitted to the ECSR with regard to Article 6(4) of the ESC.[44]

Conclusions of the European Committee of Social Rights (ECSR)

In its **2014 Conclusions**, the European Committee of Social Rights (ECSR) found the situation in Norway not in conformity with Article 6(4) of the ESC concerning the possibility for the Government to request Parliament to issue a special act in order to impose compulsory mediation before the National Wage Board.[45] The case originated from the dispute between *Norsk olje og gass* (formerly OLF) and the workers' organisations *Industri Energi* (LO), SAFE (YS) and *Lederne* (the Norwegian Organisation of Managers and Executives) on the revision of the shelf agreements on the fixed oil installations in the North Sea. After the voluntary mediation period, initiated following the failure of the negotiations, had expired and the unions called for a stoppage of work, the Government decided to resort to the compulsory mediation procedure. The Government grounded its decision on the recognition that an interruption of oil and gas production would be highly detrimental to the national economy.

In its conclusions, the ECSR recalled that the use of compulsory arbitration to terminate a strike is not in conformity with the ESC, except in those cases in which it complies with the requirements of being prescribed by law and of being 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.[46]

Conclusions 2018[47]

The Committee previously concluded that the situation in Norway was not in conformity with Article 6§4 of the Charter on the ground that legislation was enacted during the reference period in order to terminate collective action in circumstances which do not comply with the conditions established by Article G of the Charter (Conclusions 2014). It recalls that the use of compulsory arbitration to terminate a strike is contrary to the Charter except in the cases established by Article G (any restrictions or limitations can only be those which are "prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals") (Conclusions XIV-1). The Committee emphasises that the authorities must demonstrate that these conditions are satisfied

for each case and it reserves the right to verify whether in its opinion the conditions of Article 31 are fulfilled (Conclusions XI-1, p. 89).

During the reference period legislative intervention has been used on four occasions to terminate a strike. According to the report all of the interventions were implemented to safeguard the general public's life and health, or critical community functions.

In 2013, the Government intervened to end a dispute in the **energy sector** recommending the use of compulsory arbitration Act of 21 June 2013, No. 56 (Prop. 163 L (2012-2013)) relating to the wages arbitration board's processing of the labour dispute between the Electrician and IT Workers Union (EL & IT Forbundet) and Atea AS). The Government maintains that this conflict posed a threat to the maintenance of the power supply in Norway. Bad weather was forecast, which entailed a significant risk of damage to the power grid. If these defects could not be fixed immediately, this could potentially pose a danger to the power supply. Therefore, the dispute was a threat to essential public interests.

Temporary legislation was enacted in 19 September 2014 terminating a strike by **laundry workers**. This dispute affected laundries responsible for supplying certain hospitals with work clothes and bedding. The Government maintains that this strike could have posed a threat for patient safety, and could thus be a threat to life and public health.

Temporary legislation was enacted in 2016 seeking to terminate a strike between the Norwegian Airline Pilots Association and the Federation of Norwegian Aviation Industries. The dispute related to **pilots** who were employed in a company engaged in **air ambulance services**. According to the Government a strike among these pilots had the consequences that ambulance aircraft would be grounded. Therefore, the dispute posed a threat to life and public health.

Legislation was also enacted to terminate a strike in the **health sector** between the Federation of Norwegian Professional Associations and the Employers' Association Spekter in connection with the 2016 wage settlement). A strike among the physicians at Norwegian hospitals lasted from 7 September to 11 October, with regular escalations. In total, 628 physicians, engineers, economists, lawyers and social scientists were on strike. After 36 days, a situation arose in which a hospital could no longer maintain adequate emergency medical services. The Government argues that a continued strike would therefore have constituted a hazard to life and public health.

However the Committee recalls that in Conclusions 2004 it decided to no longer consider as part of the reporting procedure the situations in which compulsory arbitration has been imposed by Parliament to end a strike in the sectors which are prima facie covered by Article G. In light of the limited amount of information available to the Committee, it considers that the situations could be covered by Article G. It further considers that these types of cases are better dealt with under the collective complaints procedure which has been accepted by Norway.

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

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- ETUC, COVID-19 Watch, Trade Union Rights and COVID-19, 10 June 2020 (https://www.etuc.org/en/publication/covid-19-watch-etuc-briefing-notes).

Notes

1 For an overview of UN instruments ratified by Norway see https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=_en .
2 The Government of Norway ratified the ICESCR subject to reservations 'to the effect that the current Norwegian practice of referring labour conflicts to the State Wages Board (a permanent tripartite arbitral commission in matters of wages) by Act of Parliament for the particular conflict shall not be considered incompatible with the right to strike, this right being fully recognised in Norway.'
3 For an overview of ILO Conventions ratified by Norway, see https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102785 .
4 Status of ratifications of the Revised European Social Charter: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=jPYjkVEL (accessed on 15 May 2021); see also ESC, Country profile: Norway (https://www.coe.int/en/web/european-social-charter/norway).
5 Status of ratifications of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158/signatures?p_auth=F3KSQtYr (accessed on 15 May 2021); Norway has not yet made a declaration enabling national NGOs to submit complaints.
6 Status of ECHR ratifications: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL (accessed on 15 May 2021).
7 Section 33(2) LDA.
8 Section 1(c) LDA.
9 Section 8(1) LDA and Section 20(1) PSLDA.
10 See also Section 8(1) LDA.
11 Section 1(g) LDA.
12 See also Section § 3-6 Industrial sympathy actions of the Basic Agreement 2018 – 2021 LO-NHO with supplementary agreements (https://www.nho.no/siteassets/publikasjoner/basic-agreement-lo-nho-2018-2021.pdf).
13 Section 20(5) PSLDA; see also The Basic Agreement 2018 – 2021 LO-NHO with supplementary agreements (https://www.nho.no/siteassets/publikasjoner/basic-agreement-lo-nho-2018-2021.pdf).
14 See also Section § 3-14 Political demonstrations of the Basic Agreement 2018 – 2021 LO-NHO with supplementary agreements (https://www.nho.no/siteassets/publikasjoner/basic-agreement-lo-nho-2018-2021.pdf).
15 ILO, Timo Knäbe and Carlos R. Carrión-Crespo, 'The Scope of Essential Services: Laws, Regulations and Practices', Working paper, 2019 (https://ilo.userservices.exlibrisgroup.com/discovery/delivery/41ILO_INST:41ILO_V2/1267249440002676?lang=en).
16 ILO, Timo Knäbe and Carlos R. Carrión-Crespo, 'The Scope of Essential Services: Laws, Regulations and Practices', Working paper, 2019 (https://ilo.userservices.exlibrisgroup.com/discovery/delivery/41ILO_INST:41ILO_V2/1267249440002676?lang=en).
17 Use of this practice has declined in response to national and international criticism; see Fafo report.
18 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.
19 Eurofound, 'Living and working in Norway, Industrial action and disputes, 15 March 2021 (https://www.eurofound.europa.eu/country/norway).
20 Section 15(1) LDA.
21 Section 16 LDA.
22 Section 19(1) LDA.
23 Section 25 LDA.
24 Sections 17 and 18 PSLDA.
25 Section 17 PSLDA.
26 Section 26a PSLDA.
27 For example, The Basic Agreement 2018 – 2021 LO-NHO sets out in Section § 2-2 "Obligation to refrain from industrial action: No stoppages or other industrial action must take place where a collective agreement is in force."

28 Section 15 para. 5 of the Working Environment Act (No. 62 of 2005) explicitly states that the termination of work in relation to a lawful strike or collective action does not constitute an interruption of the continuity of employment.
29 Section 1(h) LDA.
30 Section 9(1) LDA and Section 23 PSLDA.
31 On the basis of Section 15-14 of the Working Environment Act (No. 62 of 2005).
32 Section 9(1) LDA.
33 Section 10 LDA.
34 Section 15-17 'Dismissal in connection with labour disputes' provides that: "The provisions laid down in this chapter shall not apply in connection with dismissal pursuant to section 15 of the Labour Disputes Act or section 22 of the Civil Service Disputes Act."
35 This report takes into consideration cases lodged after 2008 and until 15 May 2021.
36 Full text of the Decision is available at:
https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:4059247 .
37 Full text of the Decision is available at:
http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3282152.
38 Full text of the Decision is available at:
http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3173689.
39 On 15 May 2021; For an overview of ILO CEACR comments on the implementation of the ILO Convention 87 see:
https://www.ilo.org/dyn/normlex/en/f?p=1000:20010:::NO:::
40 Full text of the Observation is available at:
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:2299113,102785,Norway,2008.
41 See European Court of Human Rights - Press Release of 10 June 2021 at: https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-7045346-9512907%22]}
42 *Ibid*
43 *Ibid*; see also ETUC Press Release of 10 June 2021 at: https://www.etuc.org/en/pressrelease/ecthr-ruling-right-strike
44 As of 15 May 2021; see European Social Charter, Country profile: Norway (https://www.coe.int/en/web/european-social-charter/norway).
45 ECSR, Conclusions 2014 on Article 6(4), Norway at: http://hudoc.esc.coe.int/eng?i=2014/def/NOR/6/4/EN
46 Article G of the (R)ESC.
47 ECSR, Conclusions 2018 on Article 6(4), Norway at: http://hudoc.esc.coe.int/eng?i=2018/def/NOR/6/4/EN