



The right to strike in the public sector

Russian Federation

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1. Legal basis

International level

The Russian Federation has ratified:

UN instruments¹:

International Covenant on Economic Social and Cultural Rights

(ICESCR, Article 8)

ratified on 16 October 1973

International Covenant on Civil and Political Rights

(ICCPR, Article 22)

ratified on 16 October 1973

ILO instruments² :

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

ratified on 10 August 1956;

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

ratified on 10 August 1956;

Convention No. 154 concerning Collective Bargaining

ratified on 6 September 2010

European level:

The Russian Federation has ratified:

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

ratification: 16 October 2009, entry into force: 01.12.2009³;

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

ratification and entry into force on 05 May 1998⁴.

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

National level

- Constitution⁶ Article 37 (4) provides that: *“The right to individual and collective labor disputes with the use of means of resolution thereof established by federal law, including the right to strike, shall be recognised.”*
- Applicable laws
 - **In general:** the Labour Code⁷, Chapter 61 provides rules for the resolution of collective labour disputes, including on the right to strike.⁸
Article 398 of the Labour Code provides that: “A strike is a temporary voluntary refusal of workers to perform job duties (fully or in part) for purposes of resolving a collective labour dispute.”⁹

Article 409 of the Labour Code: In accordance with Article 37 of the Constitution of the Russian Federation, the right of workers to strike as a means of resolving collective labour disputes is acknowledged.¹⁰
 - **Specific laws for certain sectors:** It was noted that the right to strike is restricted by certain federal laws: the Labour Code; Law on State Civil Service; Federal Law No. 17-FZ on Railway Transport of 10.01.2003; Federal Law No. 60-FZ on Aviation Code of 19.03.1997; Federal Law No. 76-FZ of 27.05.1998 "On the Status of Servicemen"; Federal Law "On the Alternative Civil Service" No. 113-FZ of 25.07.2002; Federal Law No. 67-FZ 17.12.1994 "On the courier service"; Federal Law No. 161FZ of 14.11. 2002 "On State and Municipal Unitary Enterprises" etc (see Section 4 of this paper below)

2. Who has the right to call a strike?

The decision to call a strike shall be taken by a meeting or a *conference*¹¹ of the employees of an organisation (branch, representative office or another detached structural unit) or individual entrepreneur on the proposal of the representative body of employees which has been empowered by the employees to resolve a collective labour dispute.¹²

To be deemed legitimate, a meeting of employees must be attended by over half the total number of an employer's employees, and in the case of a *conference* (meeting of employees' delegates) by at least two-thirds of the delegates.¹³ The decision to call a strike should be taken by no less than half of the employees or delegates present at a meeting or conference.¹⁴

3. Definition of strike/collective action(s)

The Labour Code¹⁵ defines the strike as *a temporary voluntary refusal of workers to perform job duties (fully or in part) with a goal to resolve a collective labour dispute*¹⁶.”

As noted above, Article 409 of the Labour Code provides that in accordance with Article 37 of the Constitution of the Russian Federation, the right of workers to strike as **a means of resolving collective labour disputes** is acknowledged.¹⁷ It was interpreted by the doctrine that this puts limitations to solidarity actions and political strikes because in both cases the parties of the strike will fall out of the definition of collective labour disputes.¹⁸

- There are no provisions in Russian legislation for solidarity strikes or strikes on issues related to government policy.¹⁹
- *Warning strikes* are permitted. Under Article 410 (7) of the Labour Code, a warning strike may be called after five calendar days of deliberations of the conciliation commission. It may last for one hour and may be taken once in the course of a collective labour dispute. The employer shall be informed about the warning strike no later than three days in advance.²⁰ The minimum works (services) need to be ensured in case of a warning strike in accordance with the rules applicable to ‘normal’ strikes provided by the Labour Code (see Section 4 below).²¹
- Under the Labour Code, employees have the right to hold meetings, assemblies, demonstrations and *picketing* in support of their demands during the consideration and resolution of a collective labour dispute.²² The right to organise meetings, street demonstrations, picketing and other collective actions as means of protection of workers’ rights is also granted to the trade unions according to Article 14 of the Trade Unions Act.²³ The Federal Act on Assemblies, Meetings, Demonstrations, Marches and Picketing No. 54-FZ of 19 June 2004 regulates the way of carrying out these actions.²⁴
- It was interpreted by the doctrine that other types of collective action such as *go-slows*, *sit-ins* or *work-to-rule*²⁵ are not prohibited by the legislation and thus permitted.²⁶ Others have interpreted that, as such, work-to-rule and go-slow actions will not be considered lawful strike action.²⁷ Hunger strikes were also previously met in practice.²⁸

4. Who may participate in a strike?

As mentioned above, Article 37 (4) of the Constitution provides that: *“The right to individual and collective labor disputes with the use of means of resolution thereof established by federal law, including the right to strike, shall be recognised.”* It was noted that the constitutional right to strike is not absolute, but rather depends on the mechanism of its incorporation into federal legislation.²⁹

Article 55 of the Constitution provides that: “[...] 3. The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State.”

Under Article 413 (2) of the Labour Code, the right to strike may be restricted by federal law.³⁰ The Labour Code and other federal laws establish restrictions on the right to strike as described below. Under the Labour Code, the participation in a strike is voluntary. No individual can be coerced to participate or to refuse to participate in a strike.³¹ The Code of administrative offences establishes criminal liability for coercion to participate in, or to abstain from, the strike through use of violence or threats of violence, or taking advantage of the dependent status of the coerced, in the form of an administrative fine (500 to 1.000 rubles for citizens; 1.000 to 2.000 rubles for officials).³²

Restrictions on the right to strike

- **Restrictions related to emergency situations and ‘vital services’**

Under Article 413 of the Labour Code, **strikes shall be considered unlawful** and shall not be allowed:

(a) during periods when martial law or a state of emergency or special measures are declared in accordance with legislation on **emergency situations**; within the organisations and bodies of the **Armed Forces** of the Russian Federation, other military, militarised, and other formations, organisations (branches, representative offices or other detached structural units) directly charged with issues of **national defense, national security, emergency lifesaving, search-and-rescue, and firefighting operations** and the prevention or management of natural disasters and emergencies; in **law enforcement** agencies; and in organisations (branches, representative offices or other detached structural units) directly involved in servicing especially **hazardous types of industrial works** or equipment and **emergency and urgent medical assistance centers**.³³

(b) in the organisations (branches, representative offices or other separate structural subdivisions) directly related to **providing vital services to the population** (energy supply, heating and heat supply, water supply, gas supply, air, rail, and water transportation, communications, and hospitals), **if/in the event that holding strikes poses a threat to national defense and state security, as well as to the life and health of people**.³⁴

The “essential services” in the strict sense of the term have been defined by the International Labour Organisation as those services “the interruption of which would endanger the life, personal safety or health of the whole or part of the population.”³⁵

- **State civil service and municipal service**

In accordance with the Federal Law "On State Civil Service in the Russian Federation" all state civil servants are forbidden to "stop their duties in order to settle a service dispute".³⁶ A similar ban applies to municipal service.³⁷

Other prohibitions concern the following categories³⁸:

Heads of state and municipal unitary enterprises do not have the right to take part in strikes in accordance with the Federal Law "On State and Municipal Unitary Enterprises".³⁹

The Federal law “On Alternative Civil Service” provides that citizens on alternative civil service are not entitled to participate in strikes and other forms of suspension of the activities of organisations.⁴⁰

Strikes are also prohibited for workers of the federal courier service.⁴¹

- **Strikes are prohibited for civil aviation personnel engaged in air traffic management**

Article 52(1) of the Aviation Code in order to protect the rights and legitimate interests of citizens, ensure the defense and security of the state, strikes or other termination of work (as a means of resolving collective and individual labour conflicts and other conflict situations) are not allowed to **civil aviation personnel engaged in air traffic management (control)**.⁴²

- **Strikes are prohibited for workers engaged in the public railway sector**

Article 26(2) of the Federal Law on Railway Transport, strike as a means to settle collective labour disputes by public railway transport workers whose activities are related to trains traffic, shunting, as well as to the services of passengers, consignors and consignees on the public railway transport is illegal and not allowed. The list of occupations is determined by federal law.⁴³ It was commented that the list of occupations is so wide that almost any railroad employee has no right to participate in strike.⁴⁴

- **Strikes are prohibited near nuclear industry enterprises**

The Federal Law on the Use of Nuclear Energy prohibits the strikes, meetings, demonstrations and picketing, blocking of transport and other social actions near to the nuclear industry enterprises and strikes that may damage the work of such enterprises.⁴⁵

- **Prisoners' strike is forbidden**

Under the Penal Code of the Russian Federation, the organisation of strikes by persons sentenced to deprivation of liberty is a major breach of the established order of serving a sentence.⁴⁶

- **Obligation to perform minimum works (services)**

Article 412 of the Labour Code⁴⁷ provides the obligation to perform minimum works (services) during the course of a strike.

A list of the minimum work (services) performed during the period of the industrial action by employees of the organisations (branches, representative offices or other detached structural units) or individual entrepreneurs, the activities of which are associated with the safety of persons, health support, and the vital interests of society, shall be elaborated for each branch (sub-branch) of the economy and approved by the federal executive agency responsible for coordinating and regulating activities in the corresponding branch (sub-branch) of the economy, in coordination with the corresponding all-Russian trade union.⁴⁸ Procedures for elaborating and approving the list of minimum necessary work (services) shall be defined by the Government of the Russian Federation.⁴⁹

The minimum required work (services) performed during the strike by employees of the organisation or the individual entrepreneur shall be determined by agreement between the employer (representative of the employer) and the representative body of workers together with the local government authority within three days from the day a decision is adopted to declare a strike.⁵⁰ The lists of minimum necessary work (services) are adopted based on industry and regional lists (see below).⁵¹

The inclusion of a certain type of work (services) into the list of minimum work (services) should be motivated by the likelihood of harm to health or a threat to citizens' lives.⁵² The minimum necessary work (services) may not include work (services) not envisaged in the corresponding lists of minimum necessary work (services) of sector of economy or territory.⁵³

If an agreement is not reached within 3 days, the minimum necessary work (services) shall be established by an executive authority of subject (territory) of the Russian Federation.⁵⁴ The decision of the respective authority establishing the minimum required work (services) may be appealed in court by the parties to the collective labour dispute.⁵⁵ Under the Labour Code, in case the minimum required services are not provided, a strike may be suspended by a court

decision until employees and the representative body of employees fulfill the relevant requirements.⁵⁶

It was reported⁵⁷ that as of September 2013 there have been 30 approved lists for different industries: shipbuilding; consumer goods; medical and biotechnological; mechanical engineering; chemical and petrochemical industry; forestry; federal state institutions and federal state enterprises under the jurisdiction of the Ministry of Culture of the Russian Federation; organizations under the jurisdiction of the Ministry of Natural Resources of Russia; organizations, branches and representative offices of the rocket and space industry; organizations of the agroindustrial and fisheries complex; organizations, branches and representative offices of the education system; peat industry; gas distribution organizations; electric power; health care organizations; oil, oil refining, gas industries and oil products supply; coal industry; metallurgy; transport; hydrometeorology. For some industries there are separate regional lists of minimum works (services).⁵⁸

- **The right of Government to suspend the strike**

In instances that are of particular importance for ensuring the vital interests of the Russian Federation or individual territories thereof, the Government of the Russian Federation has the right to suspend a strike until the matter is resolved by the appropriate court, but not longer than ten calendar days.⁵⁹ It was reported that there had not been any precedents known of suspension by the Government before the court's decision regarding its lawfulness or suspension by January 2019.⁶⁰

- **The suspension of strikes by courts**

According to the Labour Code, in the event of a direct threat to the life and health of people, the court has the right to postpone an imminent strike for up to 15 days, and to suspend a strike that has begun for the same period.⁶¹

5. Procedural requirements

- The employees or their representatives have the right to start preparing industrial action if the conciliatory proceedings have not lead to the resolution of the collective labour dispute, or the employer or its representative decline to take part in the conciliatory proceedings, fail to observe an agreement reached in the course of settlement of the collective labour dispute or does not execute the decision of a labour arbitrator which is binding on the parties,⁶² with the exception of cases when industrial action is prohibited by law.⁶³ The Labour Code, Article 410 (2) provides for an exception to this rule: if the strike has been announced by the trade union (or trade unions' confederation), it may be performed upon the decision of the employees of a given employer without conducting prior conciliation proceedings.⁶⁴
- **Balloting** rules: The decision to call a strike is taken by the meeting or a conference of the employees of the employer.⁶⁵ The meeting quorum is no less than half of a given employer's employees and the conference quorum is no less than two thirds of delegates.⁶⁶
- The decision to call a strike shall be deemed adopted if at least half of the employees or delegates present at the meeting or conference have voted for it.⁶⁷ However, if a meeting (conference) of the employees cannot be held, the representative body of the employees is entitled to confirm a decision to call a strike by collecting the signatures of more than half of the employees in support of a strike.⁶⁸
- **Notification** periods: a strike must be notified to the employer in writing with at least 10 calendar days in advance.⁶⁹ An one-hour warning strike may be declared, with a notice in writing given to the employer at least three working days in advance.⁷⁰
- The decision declaring the strike shall contain the following: a list of the disagreements of the parties to the collective labour dispute that are deemed grounds for the declaration and conduct of the strike; the date and time of beginning of the strike, and an anticipated number of participants⁷¹; the name of the body that leads the strike and the representatives of employees authorised to participate in conciliatory proceedings; and proposals for the minimum works (services) to be provided during the strike by employees of the organisation or the individual entrepreneur.⁷²
- A strike can only be held within two months after the decision to call a strike has been made.⁷³
- During the strike, the employer, executive agencies, local government agencies, and the body leading the strike shall be required to take all measures in their power during the strike to ensure public order and the integrity of the property of the employer and the workers, as well as the functioning of any machines and equipment, stoppage of which would present an imminent threat to the life and health of human beings.⁷⁴
- In some areas, the obligation to perform minimum work (services) during a strike in accordance with Articles 412 (3) – (8) of the Labour Code (see Section 4 above),⁷⁵
- *Peace obligation*: the Labour Code provides an obligation to refrain from industrial action if the relevant terms and conditions of the collective agreement are observed⁷⁶; it was commented that this could represent a *relative peace obligation* although no court decisions or practice are known.⁷⁷ Such a clause is not prohibited in relation to the social partnership agreement⁷⁸.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- According to the Labour Code⁷⁹, the participation in a strike may not be considered a violation of labour discipline or be a ground for dismissal, with the exception of the case of failure to fulfil the obligation to stop a strike that has been already declared unlawful by the court⁸⁰.
- It shall be prohibited to apply disciplinary measures against **workers who participate in a strike**, with the exception of the cases stipulated in Article 413 (6) of the Labour Code mentioned above.⁸¹
- Workers participating in a strike shall retain their job position and office during a strike period.⁸²
- The employer shall be entitled not to pay workers' wages during the time they are participating in a strike, with the exception of workers engaged in fulfilling the mandatory minimum of work (services).⁸³
- A collective negotiations agreement or other agreement(s) reached in the course of resolving a collective labor dispute may provide for compensatory payments to workers participating in a strike.⁸⁴
- Employees are not entitled to payments provided by the state or social security funds (e.g. unemployment benefits) while on strike.⁸⁵ It was noted that no data regarding support provided by trade unions to participants in a strike is available.⁸⁶
- The employees **who do not participate in a strike** but are prevented from performing their jobs shall be paid for "idle time/standstill/stoppage of work not attributable to employees" in the amounts and under the procedures provided by the Labour Code.⁸⁷ Under the Labour Code, a period of stoppage due to an employer's fault shall be remunerated in the amount of not less than two-thirds of an employee's average wage.⁸⁸ A period of stoppage due to reasons not dependent on an employer or an employee shall be remunerated in an amount of not less than two-thirds of the basic salary.⁸⁹ It was noted that the court will finally qualify the reasons of stoppage in each particular case.⁹⁰
- The employer has the right to transfer the employees who do not participate in the strike to another job.⁹¹
- A collective negotiations agreement or other agreement(s) reached in the course of resolving a collective labor dispute may provide for a more preferential system of payments to workers not participating in strikes than that provided in the Labour Code.⁹²
- *Lockout*. Article 415 of the Labour Code refers to the "*prohibition of lockout*". It was noted that however, 'lockouts' prohibited by this provision are defined only as dismissal of the employees because of their participation in the collective labour dispute. There is no prohibition for the employer not to allow workers to their working places, i.e., to effectively organise a *lockout* (in the sense used in most of the countries, but not in Russia).⁹³

- **Participation in unlawful strikes:**

- A strike is unlawful if it is declared without taking into account the terms, procedures and requirements stipulated by the Labour Code.⁹⁴
- The decision to declare a strike unlawful shall be taken by the high courts of territorial units (supreme courts of republics, territorial, regional courts, municipal federal courts, courts of autonomous regions and circuits) of Russian Federation, upon a request filed by the employer or prosecutor.⁹⁵
- A court decision is communicated to employees through the body leading the strike, who is obliged to immediately inform the participants to the strike of the court's decision.⁹⁶
- A court decision declaring a strike unlawful shall be subject to immediate execution. Workers must stop the strike and resume work no later than the next day after a copy of the court decision is served on the body leading the strike.⁹⁷
- According to the Labour Code, workers who proceed to hold a strike or fail to stop a strike on the working day after the body leading the strike is informed of a legally enforceable court decision declaring a strike unlawful or postponing or suspending a strike, may be subject to disciplinary sanctions for violating labour discipline,⁹⁸ i.e. dismissed in cases of absenteeism⁹⁹. It was noted that the participation in a strike that has been declared illegal by the court, is not itself a ground for disciplinary measures, only the refusal to return to work one day after the court decision declaring the strike unlawful comes into force.¹⁰⁰ [It was commented¹⁰¹ that employers tend to treat the workers' collective actions as not falling under definition of strike. In such situations, workers are dismissed not for participating in the illegal strike but for the breach of their working duties.]
- The workers' representative body that has announced a strike can be held liable for damages caused to the employer by the unlawful strike, if it did not stop the strike after the court's decision declaring the strike unlawful has come into force.¹⁰² The amount of compensation will be determined by the court.

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

- International Labour Organisation
 - The Committee on Freedom of Association (CFA)

CFA, Case No. 2251, The Russian Labour Confederation (KTR), Report No. 333, March 2004¹⁰³

In its communication dated 3 February 2003, the complainant alleged that the newly adopted Labour Code contained provisions violating the rights of workers to freely establish and join organisations of their own choosing and to determine their structures and membership, the right to bargain collectively and the right to strike.

As concerns the allegation that the Russian legislation does not expressly provide for sympathy strikes, strikes aimed at recognising a trade union and strikes over major social or economic issues, the Committee recalled that **workers and their organisations should be able to call for a strike aimed at recognising a trade union, as well as in order to criticize a government's economic and social policies and should be able to take a sympathy strike, provided the initial strike they are supporting is itself lawful** [see Digest, op. cit., paras. 482, 484, 486-488]. In the present case, the Committee noted that while those kinds of strikes are not expressly forbidden under the legislation, their legality may be ensured more generally through developed judicial precedents. The Committee requests the Government to ensure that the abovementioned principles are respected.¹⁰⁴

With regard to the quorum required for a strike ballot, the Committee considered that while the obligation to observe a certain quorum to take strike action may be considered acceptable, the observance of a quorum of two-thirds of workers may be difficult to reach [see Digest, op. cit., paras. 510 and 511]. **It therefore requested the Government to amend its legislation so as to lower the quorum required for a strike ballot** and to keep it informed of the measures taken or envisaged in this regard.¹⁰⁵

As concerns the complainant's statement that it is not clear from Section 412 of the Labour Code whether minimum services are to be ensured in every sector of activity, the Committee is of the view that the establishment of minimum service in the case of strike action should only be possible in: (1) 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); (2) services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population; and (3) in public services of fundamental importance [see Digest op. cit., para. 556]. **The Committee requested the Government to indicate whether the establishment of minimum services is a requirement applicable to all categories of workers and if that is the case, it requested the Government to amend its legislation so as to ensure that such a requirement is limited to the abovementioned cases.** As regards the provision that any disagreement concerning the establishment of minimum services should be settled by the authorities, the Committee considers that if negotiations between the parties fail, such disagreements should be resolved by an independent body, so as to avoid any possible delay that would be tantamount to a restriction of strike action. The Committee therefore **requested the Government to amend its legislation so as to ensure that any disagreement concerning minimum services is settled by an independent body having the confidence of all the**

parties to the dispute and not the executive body and to keep it informed of measures taken or envisaged in this regard.¹⁰⁶

The Committee further noted the KTR's allegations concerning restrictions on the right to strike imposed on certain categories of workers (section 413). (...)The complainant referred to a number of normative acts imposing prohibitions or restrictions on the right to strike of the following category of workers: police; military forces; employees of the federal institutions of governmental communication infrastructure and information; employees of internal affairs institutions; employees of the Federal State Communication Services; state employees; employees of professional emergency and rescue services; railroad employees; civil municipal servants; air traffic controllers; and employees of tax police. Strikes outside nuclear facilities and storage areas are also restricted if such strikes infringe the working conditions of nuclear facilities and storage area personnel, or in case of any other danger to the safety of the people, environment, health, rights and lawful interests of other people. The complainant considered that the abovementioned bans on the right to strike limit the right of a larger number of people than required to avoid endangering peoples' lives, their personal security or the health of the nation or its part. For instance, section 11 of the law on fundamentals of state employment prohibits strike in the public service not only for those who are engaged in the administration of the state, but for many other employees.¹⁰⁷

[The Committee recalled that the right to strike may be restricted or prohibited: (1) in the public service only for public servants exercising authority in the name of the state; (2) in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population); and (3) in the event of an acute national emergency [see Digest, op. cit., paras. 526 and 527].] As concerns section 413(1)(b) of the Labour Code, in the view of the complainant's concerns, the Committee requested the Government to indicate the enterprises and services it qualifies as directly servicing highly hazardous kinds of production or equipment where the right to strike is prohibited. As concerns the abovementioned categories of workers, who, according to the relevant federal laws, cannot recourse to a strike action, the Committee noted that the list includes employees of railroad, which does not constitute essential services in the strict sense of the term. The Committee therefore **requested the Government to amend its legislation so as to ensure that railroad employees, as well as those engaged in the public service but not exercising the authority in the name of the state, enjoy the right to strike.**¹⁰⁸

As concerns the declaration of illegality of a strike when the minimum of necessary services has not been agreed upon within five days from the time of calling a strike, as provided for in section 412(5) of the Labour Code, the Committee recalls that the conditions that have to be fulfilled under the law in order to render a strike lawful should be reasonable and in any event not such as to place a substantial limitation on the means of action open to trade union organizations [see Digest, op. cit., para. 498]. **The Committee requested the Government to take the necessary measures, including the amendment of the legislation, in order to ensure that a strike would not be declared illegal when the minimum of necessary services has not been agreed upon within five days from the time of calling a strike,** especially when there is a sufficient time to agree on this matter before the strike takes place.

The Committee further noted that, according to the complainant, the Russian legislation requires the workers' representatives to warn the employer about a strike at least ten days in advance, which gives the employer sufficient time to challenge the strike's legal grounds. The Committee noted that the KTR's statement to the effect that according to the prevailing practice in Russia, employers file cases on the legality of a strike as soon as it is declared. In

most cases, the court's order to postpone the strike for 30 days or declare it illegal. In these circumstances, a strike becomes virtually impossible. The Committee considers that the obligation to give a prior notice to the employer before calling a strike may be considered acceptable [see Digest, op. cit., para. 502]. The Committee further notes that the responsibility to declare a strike illegal lies with the judicial body, which is also in conformity with the principles of freedom of association. The Committee considers, however, **that the legislative provisions should not be used so as to prevent recourse to strike action in practice.** In the light of the complainant's allegation to the effect that in practice, the strike is often postponed or declared illegal, the Committee requested the Government to provide relevant information, including statistical information, on how the right to strike is exercised in practice.¹⁰⁹

The Committee noted the complainant's concern over strike replacements, to which employers, incited by the absence of provision in the Labour Code banning such a practice, often have recourse. The Committee considers that the hiring of workers to break a strike in a sector which cannot be regarded as an essential sector in the strict sense of the term, and hence one in which strikes might be forbidden, constitutes a serious violation of freedom of association. If a strike is legal, **recourse to the use of labour drawn from outside the undertaking to replace the strikers for an indeterminate period entails a risk of derogation from the right to strike, which may affect the free exercise of trade union rights** [see Digest, op. cit., paras. 570-571]. The Committee requested the Government to ensure that this principle is respected.¹¹⁰

- **The Committee of Experts on the Application of Conventions and Recommendations (CEACR)¹¹¹**

Observation CEACR – adopted 2018, published 108th ILC session (2019)¹¹²

The Committee recalled that it had previously requested the Government to ensure that workers of municipal services as well as civil servants who did not exercise authority in the name of the State could exercise the right to strike. The Committee noted the Government's explanation of the system of the civil service in the Russian Federation. The Government referred, in particular, to section 3(1) of the Law on State Civil Servants, which defines State Civil Service as a type of service carried out by citizens at their respective governmental positions aimed at executing the authority of various State bodies. Therefore, the prohibition of strikes in the civil service is necessary due to its specific functions, which should be uninterrupted to guarantee the exercise of the authority of various state bodies. The Government pointed out that this prohibition affects civil servants irrespective of the specific level and category of their position as all civil servants contribute individually and collectively towards the public aim of the civil service, through which the authority of the State is exercised. Likewise, the legislation prohibits the exercise of the right to strike by municipal civil servants, who exercise authority in the name of municipal bodies. While taking due note of this information, the Committee recalled the KTR's previous indication that section 9 of the Law on State Civil Service divides the duties of the civil service into four categories and that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". Recalling that the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State, **the Committee invited the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category.**

With regard to its previous request to amend section 26(2) of the Law on Federal Rail Transport (2003) so as to ensure **the right to strike of railway workers**, the Committee noted that the Government reiterated the prohibition imposed by the legislation on workers in railway services engaged in the public railway sector and cargo. The Committee recalled that **railway transport does not constitute an essential service in the strict sense of the term** where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. The Committee once again requested the Government **to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport** so as to bring it into line with the Convention. It requested the Government to provide information on the measures taken or envisaged in this respect.

- **European Social Charter**

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

Conclusions 2018 – Russian Federation - Article 6§4¹¹³

With regard to the entitlement to take collective action, the Committee noted from the report that at local level, under Article 410(2) of the Labour Code, a decision on the participation of employees in a strike must be taken by a general assembly of staff (or a meeting of employees' delegates), without prior conciliation proceedings. To be deemed legitimate, such a general assembly must be attended by over half the total number of employees, or in the case of a meeting of employees' delegates by at least two-thirds of the delegates. However, if such a decision is not possible, the primary (shop-floor level) trade union organisation must implement conciliation proceedings. The Committee asked how this is applied in practice. **It considered that the situation is not in conformity with the Charter, on the ground that the required majority to call a strike is too high.**

With regard to specific restrictions on the right to strike, in its previous conclusion (Conclusions 2014), the Committee noted that the restrictions imposed on the right to strike applied to a large number of economic activities in the private and public sectors and therefore asked the Government to state, in relation to every service subject to restrictions with regard to the right to strike, if and to what extent work stoppages may undermine respect for the rights and freedoms of others or threaten the public interest, national security, public health or morals. The Committee also asked whether these restrictions were in all cases proportionate to achieve the objective of ensuring, in a democratic society, respect for the rights and freedoms of others or the public interest, national security, public health or morals.

In reply, the report points out that Article 37§4 of the Constitution recognizes the right to individual and collective labour disputes and the use of the procedures established by federal law to settle them, including the right to strike. Under Article 17§3 of the Constitution, the exercise of human and civil rights and freedoms must not violate the rights and freedoms of other people. Corresponding norms are also established by the Labour Code. The Committee asks how these provisions are applied in practice.

In addition, the Committee notes from the report that, according to Article 52§1 of the Federal Law N°60-FZ on Aviation Code of the Russian Federation of 19 March 1997, in order to protect the rights and legitimate interests of citizens, ensure the defense and security of the state, strikes or other termination of work (as a means of resolving collective and individual labour conflicts and other conflict situations) are not allowed to civil aviation personnel engaged in air traffic management (control). It also notes that, according to Article 26§2 of the Federal Law N°17-FZ on Railway Transport of 10 January 2003, strike as a means

to settle collective labour disputes by public railway transport workers whose activities are related to trains traffic, shunting, as well as to the services of passengers, consignors and consignees on the public railway transport, the list of occupations is determined by federal law, is illegal and not allowed. Under Article 6§4 the right to strike may be restricted provided that any restriction satisfies the conditions laid down in Article G which provides that restrictions on the rights guaranteed by the Charter that are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals.

The Committee recalled also that restricting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health. However, simply banning strikes even in essential sectors – particularly when they are extensively defined, is not deemed proportionate to the specific requirements of each sector, but providing for the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4.

The Committee considered that, even if the restriction to the right to strike is prescribed by law (in this case the Labour Code) and serves a legitimate purpose, namely public health and safety, a total ban on the right to strike in the above mentioned sectors is not proportionate to the aim pursued by the law and therefore necessary in a democratic society. It held however that the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4. As there is no provision for the introduction of a minimum service, and strikes are simply prohibited for the abovementioned categories of employees, **the Committee found that the situation is not in conformity with the Charter.**

Where prior notification to the employer of the duration of a strike is concerned, the report states that Federal Law no. 334-FZ of 22 November 2011 amending the Labour Code with a view to improving the procedure for examining and resolving collective labour disputes repealed that obligation in paragraph 10 (d). The Committee notes that this situation is in conformity with the Charter on this point.

The Committee concluded¹¹⁴ that the situation in the Russian Federation is not in conformity with Article 6§4 of the Charter on the grounds that:

- the restrictions on the right to strike for civil aviation personnel engaged in air traffic management and for public railway transport workers do not comply with the conditions established by Article G of the Charter, and
- the percentage of workers required to call a strike is too high.

Conclusions 2014 – Russian Federation - Article 6§4¹¹⁵

More generally, the Committee underlined that the right to strike is one of the essential means available to workers and their organisations for the promotion and protection of their economic and social interests. It recalled that under Article G of the Charter restrictions on the right to strike are acceptable only if they are prescribed by law, pursue a legitimate aim and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals (Conclusions X-1 (1987), Norway (under Article 31 of the Charter). In other words, the Committee considered that a ban on strikes in sectors that are deemed essential to the life of the community are presumed to pursue a legitimate aim if a work stoppage could

threaten the public interest, national security and/or public health (Conclusions I (1969), Statement of Interpretation on Article 6§4 and Confederation of Independent Trade Unions in Bulgaria, Confederation of Labour “Podkrepa” and European Trade Union Confederation v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, §24). However, simply banning strikes even in essential sectors – particularly when they are defined in broad terms – is not deemed proportionate to the specific requirements of each sector. At most, the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4 (Conclusions XVII-1 (2004), Czech Republic).

The Committee noted that the restrictions imposed on the right to strike apply to an important number of economic activities in the private and public sectors. The report did not contain any information which enabled the Committee to conclude that the services concerned may all be regarded as “essential services” in the strictest sense of the term, that is to say activities which are necessary in a democratic society in order, in accordance with Article G of the Charter, to protect the rights and freedoms of others or to protect the public interest, national security, public health, or morals. Consequently, the Committee asked the Government to state, in relation to every service subject to restrictions with regard to the right to strike, if and to what extent work stoppages may undermine the respect for the rights and freedoms of others or threaten the public interest, national security, public health, or morals. In this context, it also asked whether such restrictions are in all cases proportionate to achieve the objective of ensuring, in a democratic society, the respect for the rights and freedoms of others or the public interest, national security, public health, or morals. The Committee deferred its conclusion pending receipt of the information requested.¹¹⁶

- **European Court of Human Rights**

The case of *Ognevenko v. Russia*¹¹⁷

With regard to the facts, the applicant, Aleksey Anatolyevich Ognevenko, was a train driver for Russian Railways in the Moscow Region and was a member of the trade union, Rosprofzhel. In April 2008 the union decided to call a strike after the failure of wage and bonus negotiations. The railway company did not apply to the courts to have the strike declared unlawful and Mr Ognevenko took part in it. He arrived for work on the day of the strike, but refused to take up his duties. The strike caused delays in the sector where he worked. In July 2008 Mr Ognevenko was dismissed for two breaches of disciplinary rules, one committed in 2007 which had nothing to do with union activities and the other for the refusal to take up his duties during the strike. He challenged his dismissal for taking part in the strike, but in August 2008 the first-instance court dealing with the case found that it had been lawful. The court referred to the Railway Acts of 1995 and 2003, which for safety reasons prohibited strikes by personnel responsible for the circulation of trains, shunting and services to passengers, which covered the applicant as a train driver. The court also referred to a report by a prosecutor which stated that the strike had led to cancelled and delayed trains and had violated the rights of others. Passenger safety had also been threatened as people had had to gather in large numbers on platforms. An appeal by Mr Ognevenko was dismissed in January 2009.¹¹⁸

By its decision, the Court first noted that while national authorities could under the second paragraph of Article 11 impose lawful restrictions on certain categories of State employee, such restrictions had to be justified by convincing and compelling reasons. In Russia certain categories of railway worker were banned from striking and the Court had to determine whether such an interference with Convention rights was justified. The Government argued

that it was, citing the fact that railway transport was an essential service which bolstered the economy and affected other people's interests, including their safety.

The Court observed that the International Labour Organization and the European Committee of Social Rights accepted that certain occupations, such as the armed forces or police, could be subjected to restrictions on striking. However, neither body considered the transport or railway sector to be an essential service and both had criticised Russia for banning such workers from striking. **The Court saw no reason to depart from international practice as to the definition of an essential service and to consider railway transport as such a service.**

Even if that were not the case, a restriction such as a complete ban on striking required strong justification and the prospect of financial losses from industrial action could not be a sufficient reason. When looking in particular at the strike the applicant was involved in, the Court found that the Government had not substantiated its argument that the action had caused damage in the form of delayed passenger and freight trains or that the regulation of access to platforms was outside Russian Railways' control.

The Court also examined the quality of the decision-making process behind the general measure of banning certain railway workers from striking and the decision to dismiss Mr Ognevenko. In particular, the Government had not provided any information to explain that policy choice, whether it had considered alternatives to such a prohibition, or whether railway workers had safeguards, such as conciliation and arbitration, to compensate them for the lack of a right to strike.

Ultimately the courts had only been called on to look at Mr Ognevenko's formal compliance with the law and had not been able to balance his right to freedom of association with competing public interests. He had been dismissed for a breach of disciplinary rules, a measure which inevitably had a "chilling effect" on union members taking part in industrial action to protect their interests. Punishing Mr Ognevenko in that way was a disproportionate restriction on his right to freedom of association and had led to a violation of Article 11.¹¹⁹

The case *Danilenkov and others v. Russia*¹²⁰

Relying on Articles 11 and 14 of the Convention, the applicants, Russian nationals and members of the Kaliningrad branch of the Dockers' Union of Russia (DUR), complained in particular of the Government having tolerated the discriminatory policies of their employer and having refused to examine their discrimination complaint. On 14 October 1997, the DUR began a two-week strike over pay, better working conditions, and health and life insurance. The strike failed to achieve its goals and was discontinued on 28 October 1997. In the period following, DUR members found themselves reassigned to special work teams, transferred to part-time positions, and ultimately declared redundant and dismissed as a result of a structural reorganization of the seaport company.¹²¹

The Court first recalled the scope of the State's obligations to provide protection against discrimination related to freedom of association; it stressed in particular that any employee or worker should be free to join, or not, a trade union without being sanctioned. It then found crucially important that individuals affected by discriminatory treatment should be provided with an opportunity to challenge it and to have the right to take legal action capable of ensuring real and effective relief.

The Court observed that the Kaliningrad seaport company had used various techniques to encourage employees to relinquish their union membership, including their re-assignment to

special work teams with limited opportunities, dismissals subsequently found unlawful by the courts, decrease of earnings, disciplinary sanctions, etc. In addition, despite the existence in domestic civil law at the time of a blanket prohibition against discrimination on the ground of trade-union membership or non-membership, the judicial authorities had refused to examine the applicants' discrimination complaints having held that discrimination could only be established in criminal proceedings.

As regards the criminal remedy, the Court found that its main deficiency was that, being based on the principle of personal liability, it required proof "beyond reasonable doubt" of direct intent by the company's key managers to discriminate against the trade-union members; failure to establish such intent led to decisions not to institute criminal proceedings. The Court therefore was not persuaded that a criminal prosecution could have provided adequate and practicable redress in respect of the alleged anti-union discrimination. Accordingly, the Court held that the State had failed to provide effective and clear judicial protection against discrimination on the grounds of trade union membership, in violation of Article 14 of the Convention taken together with Article 11.

8. Recent developments

It was noted that in practice, almost all strikes that take place in the last years are performed either illegally from the beginning or they are organised with an intention to be legal but they finally are considered illegal by courts.¹²²

Interferences in trade union activities at a car plant¹²³, violence against union leaders¹²⁴, the arrest of trade unionists¹²⁵ and a ban of an online community of a factory planning a protest¹²⁶ have been reported in practice.

It was observed that there are no official strikes during the last years, however unofficial protests are happening frequently.¹²⁷ The big majority of protests (more than 50% among all other reasons) are caused by delay of wages payment. It was commented that the latter reason itself cannot be a ground for the strike from legal point of view.¹²⁸ For example, it was reported that workers of the 2018 World Cup Stadium in Nizhniy Novgorod went on strike denouncing unpaid work and the absence of employment contracts.¹²⁹

The ITUC has welcomed a decision of the Russian Supreme Court, overturning a ruling from the Saint Petersburg City Court which would have dissolved the Interregional Trade Union Workers' Association (ITUWA), a member organisation of the ITUC-affiliated Confederation of Labour of Russia (KTR) and of Global Union Federation IndustriALL.¹³⁰

9. Bibliography

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- Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, pp. 451-466
- 7th National Report on the implementation of the European Social Charter submitted by the Russian Federation, 19.01.2018 pp. 131- 156, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>
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- Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 853-863, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf
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Notes

- ¹ Status of ratification by the Russian Federation of UN Treaties available at: <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=en>, consulted on 24.10.2019
- ² Status of ratification by the Russian Federation of ILO Conventions available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102884, consulted on 24.10.2019
- ³ Status of ratification by the Russian Federation of the Revised European Social Charter available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=iPYjkVEL and <https://www.coe.int/en/web/european-social-charter/signatures-ratifications>, consulted on 25.10.2019
- ⁴ Status of ECHR ratifications available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=iPYjkVEL, consulted on 25.10.2019
- ⁵ For more details on the collective complaints system of the European Social Charter see: <https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure>
- ⁶ The Constitution of the Russian Federation was adopted on 12 December 1993 and published on 25 December 1993, an unofficial English translation available at: <https://www.refworld.org/docid/3ae6b59f4.html>, consulted on 13.11.2019
- ⁷ The Labour Code of the Russian Federation, Federal Law No. 197-FZ of 30.12.2001, available (in English) at: https://www.wto.org/english/thewto_e/acc_e/rus_e/wtACCrus58_LEg_363.pdf, see in particular Chapter 61 Articles 398-418 and available (in Russian) at: http://oit.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=60535
- ⁸ See Articles 409-418 on the rules applicable to the right to strike
- ⁹ Article 398 of the Labour Code
- ¹⁰ Article 409 (1) of the Labour Code
- ¹¹ It was noted that 'the term *conference* is used when the enterprise is too big to organise a meeting of all employees. In this case employees' delegates for the conference are elected', see Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 454
- ¹² Article 410 (1) of the Labour Code
- ¹³ Article 410 (3) and (4) of the Labour Code
- ¹⁴ Article 410 (6) of the Labour Code
- ¹⁵ Article 398 of the Labour Code
- ¹⁶ Article 398 of the Labour Code defines a collective labour dispute as: "non-resolved disagreements between employees (their representatives) and employers (their representatives) concerning the establishment and alteration of working conditions (including wages), conclusion, alteration and execution of collective agreements and accords and also concerning the refusal of the employer to take into account the opinion of the employees' elected representative body in the process of adoption of local normative acts", see Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 451
- ¹⁷ Article 409 (1) of the Labour Code
- ¹⁸ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 452
- ¹⁹ ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>; see also 7th National Report on the implementation of the European Social Charter submitted by the Russian Federation, 19.01.2018, p.146, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>
- ²⁰ Article 410 (7) of the Labour Code
- ²¹ Article 410 (8) of the Labour Code
- ²² Article 401 (8) of the Labour Code
- ²³ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 460
- ²⁴ *idem*
- ²⁵ Examples of work-to-rule actions are known in Russian railroads, see Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 459
- ²⁶ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 459
- ²⁷ The ITUC Global Rights Index, Survey of violations of Trade Unions Rights, Russian Federation, available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-2>
- ²⁸ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 460
- ²⁹ ECSR, Conclusions 2014 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2014/def/RUS/6/4/EN>
- ³⁰ Article 413 (2) of the Labour Code
- ³¹ Article 409 (3) of the Labour Code
- ³² ECSR, Conclusions 2014 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2014/def/RUS/6/4/EN>
- ³³ Article 413 (1) a) of the Labour Code
- ³⁴ Article 413 (1) b) of the Labour Code
- ³⁵ Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 836 - 841 – ILO CFA has defined and listed as "essential services in the strict sense of the term" where the right to strike may be subject to restrictions or even prohibitions, the following: the hospital sector, electricity services, water supply services, the telephone service, the police and armed forces, the fire-fighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools, air traffic control. The ILO CFA has stressed that compensatory guarantees should be provided to workers in the event of prohibition of strikes in essential services, see paras. 853 - 863; See also ETUI Report 105, pp. 79-81
- ³⁶ Article 17 (15) of Federal Law No. 79-FZ of 27.07.2004 "On State Civil Service in the Russian Federation"; see also Observation CEACR adopted 2018, published 108th ILC session (2019), 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:3960669,102884,Russian%20Federation,2018
- ³⁷ Article 14 (14) of Federal Law No. 25-FZ of 2 March 2007 on Municipal Service, available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93569

³⁸ See 7th National Report on the implementation of the European Social Charter submitted by the Russian Federation, 19.01.2018, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

³⁹ Article 21 (2) i. of Federal Law No. 161-FZ of 14.11.2002 "On State and Municipal Unitary Enterprises"

⁴⁰ Article 21 (2) i. Federal Law No. 113-FZ of 25.07.2002 "On the Alternative Civil Service"

⁴¹ Article 9 Federal Law No. 67-FZ of 17.12.1994 "On the courier service"

⁴² Article 52 (1) i. of the Aviation Code of the Russian Federation No. 60-FZ of 19.03.1997; see also ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>; and 7th National Report on the implementation of the European Social Charter submitted by the Russian Federation, 19.01.2018, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁴³ Article 26 (2) i. of Federal Law No. 17-FZ of 10.01.2003 "On Railway Transport"; see also Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>; see also 7th National Report on the implementation of the European Social Charter submitted by the Russian Federation, 19.01.2018, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1> and Observation CEACR adopted 2018, published 108th ILC session (2019), 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:3960669,102884,Russian%20Federation,2018

⁴⁴ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 458

⁴⁵ Article 39 of Federal Law No. 170-FZ of 21.11.1995 "On the Use of Atomic Energy"; 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, pp. 135-136, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁴⁶ Article 116 (1) of the Penal Code of the Russian Federation; 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 136, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁴⁷ Article 412 (3) – (8) of the Labour Code

⁴⁸ Article 412 (3) of the Labour Code

⁴⁹ Article 412 (3) of the Labour Code

⁵⁰ Article 412 (5) of the Labour Code;

⁵¹ 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 136, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁵² Article 412 (5) of the Labour Code

⁵³ Article 412 (5) of the Labour Code; see also 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, pp. 136-137, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁵⁴ Article 412(6) of the Labour Code; see also 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 137, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁵⁵ Article 412(7) of the Labour Code

⁵⁶ Article 412 (8) of the Labour Code

⁵⁷ 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, pp. 137-139, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁵⁸ 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 139, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁵⁹ Article 413 (8) of the Labour Code

⁶⁰ 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 140, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁶¹ Article 413 (7) of the Labour Code

⁶² Article 409 (2) of the Labour Code

⁶³ Article 413 of the Labour Code; for more details, see Section 4 of this paper

⁶⁴ Article 410 (2) of the Labour Code

⁶⁵ Article 410 (1) of the Labour Code

⁶⁶ Article 410 (3) and (4) of the Labour Code

⁶⁷ Article 410 (6) of the Labour Code

⁶⁸ Article 410 (6) of the Labour Code; see also ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>

⁶⁹ Article 410 (9) of the Labour Code

⁷⁰ Article 410 (7) of the Labour Code

⁷¹ Federal Law No. 334-FZ of 22.11.2011 amending the Labour Code with a view to improve the procedure for examining and resolving collective labour disputes repealed the obligation to notify to the employer in advance the *duration* of the strike which existed previously in Article 410 (10) of the Labour Code, see ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>

⁷² Article 410 (10) of the Labour Code

⁷³ *Idem*

⁷⁴ Article 412 (2) of the Labour Code

⁷⁵ Article 412 of the Labour Code

⁷⁶ Article 41 (2) of the Labour Code; 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 140, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁷⁷ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, pp. 455-456

⁷⁸ Article 46 (2) of the Labour Code; 7th National Report on the implementation of the ESC submitted by the Russian Federation, 19.01.2018, p. 140, available at: <https://rm.coe.int/7th-national-report-from-the-russian-federation/16807971b1>

⁷⁹ Article 414 (1) of the Labour Code

⁸⁰ Article 413 (6) of the Labour Code provides for the immediate execution of a court decision which has declared the strike unlawful ; workers shall be required to stop the strike and resume work no later than the day after a copy of the indicated court decision is served on the body leading the strike

⁸¹ Article 414 (2) of the Labour Code

⁸² Article 414 (3) of the Labour Code

⁸³ Article 414 (4) of the Labour Code

⁸⁴ Article 414 (5) of the Labour Code

⁸⁵ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 464

⁸⁶ *Idem*

⁸⁷ Article 414 (6) of the Labour Code

⁸⁸ Article 157 (1) of the Labour Code

⁸⁹ Article 157 (2) of the Labour Code

⁹⁰ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 461

⁹¹ Article 414 (6) of the Labour Code

⁹² Article 414 (7) of the Labour Code

⁹³ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 459

⁹⁴ Article 413 (3) of the Labour Code

⁹⁵ Article 413 (4) of the Labour Code

⁹⁶ Article 413 (5) of the Labour Code

⁹⁷ Article 413 (6) of the Labour Code

⁹⁸ Article 417 (1) of the Labour Code

⁹⁹ Article 81 (6) a) of the Labour Code: "The labour contract may be discontinued by the employer in cases of: (6) a single severe violation by the employee of his labour duties: a) absenteeism, i.e. absence from the workplace without a good reason during the whole working day (shift) irrespective of the duration thereof, and also in the event of absence from the workplace without a good reason for more than four consecutive hours during the working day (shift)"

¹⁰⁰ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, pp. 461-462

¹⁰¹ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 462

¹⁰² Article 417 (2) of the Labour Code

¹⁰³ CFA, Case No. 2251 (Russian Federation), Report in which the Committee requests to be kept informed of development - No. 333, March 2004, paras. 984-998 available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2907631; see also Reports No. 337 of June 2005 and No. 340 of March 2006

¹⁰⁴ CFA, Case No. 2251, Report No. 333, para. 985

¹⁰⁵ CFA, Case No. 2251, Report No. 333, para. 987

¹⁰⁶ CFA, Case No. 2251, Report No. 333, para. 989-991

¹⁰⁷ CFA, Case No. 2251, Report No. 333, para. 992

¹⁰⁸ CFA, Case No. 2251, Report No. 333, para. 993

¹⁰⁹ CFA, Case No. 2251, Report No. 333, para. 996

¹¹⁰ CFA, Case No. 2251, Report No. 333, para. 998

¹¹¹ See Observations and Direct Requests of CEACR concerning the implementation of ILO Convention No. 87, in respect of Russian Federation, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20010::NO::>, consulted on 15.11.2019

¹¹² Observation (CEACR) adopted 2018, published 108th ILC session (2019), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_CO_UNTRY_NAME,P11110_COMMENT_YEAR:3960669,102884,Russian%20Federation,2018

¹¹³ ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>

¹¹⁴ ECSR, Conclusions 2018 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2018/def/RUS/6/4/EN>

¹¹⁵ ECSR, Conclusions 2014 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2014/def/RUS/6/4/EN>

¹¹⁶ ECSR, Conclusions 2014 on Article 6§4, Russian Federation available at: <http://hudoc.esc.coe.int/eng?i=2014/def/RUS/6/4/EN>

¹¹⁷ ECtHR, *Ognevenko v. Russia*, Application No. 44873/09, Judgment of 20.11.2018 (final), available at: <http://hudoc.echr.coe.int/eng?i=001-187732>

¹¹⁸ Brief summary of the facts as presented in the Press Release issued by the Registrar of the Court on 20.11.2018, available at: <file:///C:/Users/user/Downloads/Judgment%20%20Ognevenko%20v.%20Russia%20-%20dismissal%20of%20train%20driver%20after%20he%20took%20part%20in%20a%20strike%20.pdf>

¹¹⁹ ECtHR, *Ognevenko v. Russia*, Application No. 44873/09, Judgment of 20.11.2018 (final), available at: <http://hudoc.echr.coe.int/eng?i=001-187732>, §§ 67 - 84

¹²⁰ ECtHR, *Danilenkov and others v. Russia*, Application No. 67336/01, Judgment of 30 July 2009 (final), available at: <http://hudoc.echr.coe.int/eng?i=001-93854>

¹²¹ Brief summary of the facts as presented in Press Release issued by the Registrar of the Court on 30.07.2009, available at: <file:///C:/Users/user/Downloads/003-2813911-3084530.pdf>

¹²² Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 465

¹²³ ITUC Global Rights Index, Survey of violations of Trade Union Rights, "Inference in trade union activities", available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-3>

¹²⁴ ITUC Global Rights Index, Survey of violations of Trade Union Rights, "Violence against union leaders", available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-3>

¹²⁵ ITUC Global Rights Index, Survey of violations of Trade Union Rights, "Trade unionists arrested", available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-3>

¹²⁶ ITUC Global Rights Index, Survey of violations of Trade Union Rights, "Russian Police Shut Down Factory Workers' Online Community for Planning a Protest", available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-3>

¹²⁷ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 465

¹²⁸ Nikita Lyutov, *The Right to Strike: Russian Federation*, in Bernd Waas, *The right to strike: a comparative view*, Chapter 23, p. 465

¹²⁹ ITUC Global Rights Index, Survey of violations of Trade Union Rights, "Strike on the 2018 World Cup Stadium in Nizhniy Novgorod", available at: <https://survey.ituc-csi.org/Russian-Federation.html?lang=en#tabs-3>

¹³⁰ "Russia: Important Legal Victory for ITUWA Union", June 2018, available at: <https://www.ituc-csi.org/russia-important-legal-victory-for>