



The right to strike in the public services

Romania



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

1. Legal basis

International level

Romania has ratified:

UN instruments¹

International Covenant on Economic, Social and Cultural Rights

(ICESCR, Article 8)

International Covenant on Civil and Political Rights

(ICCPR, Article 22)

ILO instruments²

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

(28 May 1957)

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

(26 November 1958)

Convention No. 154 concerning the Promotion of Collective Bargaining

(15 December 1992)

Romania did not ratify

Convention No. 151 concerning Labour Relations (Public Service)

European level

Romania has ratified, in particular:

Article 6(4) (the right to collective action) of the Revised European Social Charter of 1996
with no reservations (ratification on 7 May 1999, entry into force on 1 July 1999)³

Romania has not accepted the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints⁴

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

(ratification and entry into force on 20 June 1994)⁵

National level

The Constitution of Romania

Article 43 of the Constitution⁶ of Romania, under Title II 'Fundamental rights, freedoms and duties', states that: *'(1) The employees have the right to strike in the defence of their professional, economic and social interests. (2) The law shall regulate the conditions and limits governing the exercise of this right, as well as the guarantees necessary to ensure the essential services for the society.'*⁷

Applicable laws

- **In general** – Law No. 62/2011 on social dialogue⁸ (the Social Dialogue Law – 'SDL', Chapter V, Articles 181-207) and the Labour Code⁹ (Articles 233-236 of Law No. 53/2003 as amended several times).
 - Under Article 181 of the SDL, a strike is defined as *'any form of collective and voluntary cessation of work within an undertaking'*.¹⁰ Strikes may be declared only to protect the professional, economic and social interests of employees, and they may not target political goals.¹¹
- **Specific regulations for the public sector** – Articles 202 to 207 of the SDL set out restrictions on the exercise of the right to strike for certain categories of employees or workplaces as detailed under section 4 below.

Other relevant laws include:¹² Law No. 188/1999 on the status of civil servants (Article 30: *'(1) Civil servants shall have the right to strike under the conditions laid down by law. (2) Civil servants on strike shall not be entitled to salary or any other salary-related rights during the strike.'*); Law No. 80/1995 on the status of military personnel (Article 28(c): *'Active military personnel may not call or participate in a strike'*); Law No. 384/2006 on the status of soldiers and enlisted service personnel (Article 25: *'Soldiers and enlisted service personnel are prohibited from or restricted in exercising certain rights and freedoms in accordance with the conditions laid down by law in relation to active military personnel.'*)

- **Case law:** reports¹³ show that courts considered strikes to be illegal in situations related to the failure to comply with the legal procedures, such as the initiation of the dispute during the period of validity of a collective agreement, demands of rights that involve legislative amendments and are not within the scope of collective disputes, or situations in which the employees interrupted their work voluntarily and spontaneously, without this being undertaken by organisers. For example, in a case of a general strike initiated in the healthcare sector by the representative union federation SANITAS, Bucharest Tribunal decided on the cessation of strike and considered it to be illegal due to the failure to comply with the procedures of registration of the collective dispute and initiation of strike, taking into account the legal interdiction (Article 164 of the SDL) to initiate a collective dispute during the period of validity of the collective agreement, valid in the healthcare sector as of the strike date, and the nature of demands involving amendments to laws which are not within the scope of negotiation and of the collective disputes according to law (Article 157 of the SDL).¹⁴

2. Who has the right to call a strike?

According to Article 183 of the SDL, the right to call a strike belongs to the *representative* trade unions involved in the collective labour dispute, and it requires the written approval of at least half of the respective trade unions' members.¹⁵ For undertakings that do not have representative trade unions, the decision to call a strike is to be taken by the *employees' representatives*, with the written approval of at least one quarter (1/4) of the employees of the respective undertaking.¹⁶ The latter rule is not applicable in the case of sympathy/solidarity strikes.¹⁷

It has been noted¹⁸ that, according to national law, the right to strike is an individual right held by workers.¹⁹ However, it may only be exercised collectively, since a strike consists in the '*collective cessation of work*',²⁰ and one worker only cannot call a strike.²¹

3. Definition of a strike

A strike may be called provided that all possibilities under the mandatory procedures for the settlement of disputes have been previously exhausted (conciliation),²² a warning strike has taken place and the organisers have informed the employer of the date of the strike at least two working days prior to the beginning of the strike.²³

The SDL regulates two other types of collective action (in addition to 'regular' strike action):²⁴

- A **sympathy or solidarity strike** is a means of supporting the demands of employees from other undertakings belonging to the same group of undertakings or to the same sector.²⁵ It may not last longer than one working day, and the employer must be informed in writing two working days before the work stoppage begins.²⁶ The initiative to call a solidarity strike may be taken **only** by the representative trade unions which are affiliated to the same federation or confederation of the trade union organising the initial (supported) strike, and it requires the written approval of at least half of the members of the respective trade unions.²⁷
- A **warning (or token) strike** may last no longer than two hours and must take place at least two working days before the 'main' strike.²⁸ The main strike may be initiated only if a warning strike has taken place.²⁹ It has been considered³⁰ that several characteristics follow from Article 185 of the SDL:
 - a warning strike has two forms: one that implies a collective and voluntary stoppage of work, but only for a duration of no more than two hours, and one that is carried out without a stoppage of work;
 - in both cases, a regular strike may be called only after at least two working days following the warning strike;
 - in the hypothesis where the warning strike involves a stoppage of work (even one that lasts no more than two hours), all of the legal conditions laid down for regular strike action must be fulfilled;
 - even where a warning strike takes place without a collective and voluntary stoppage of work, the strike action must be notified to the employer.

Under Romanian law, **strikes with political aims are illegal**.³¹ According to some,³² however, a purely political strike is possible only in theory. Strike action that has both occupational and political objectives is encountered in practice.³³

The SDL also provides that employees' **claims requiring a legislative change** cannot constitute the object of a collective labour conflict (and therefore a strike too).³⁴

Romanian legislation does not include provisions for other categories of strike/collective action such as go-slow strikes, sit-in strikes, work-to-rule strikes or rotating strikes.

In practice, some types of strike have been encountered which are not regulated by law such as Japanese strikes and work-to-rule strikes. Wildcat strikes have also been reported, involving a stoppage of work for brief periods of time (a few hours a day).³⁵

Wildcat strikes are only allowed if there is no representative trade union within the company.³⁶

4. Who may participate in a strike?

Article 43 of the Constitution guarantees employees the right to strike. The conditions and limits governing the exercise of this right, as well as the guarantees necessary to ensure the provision of essential services, are laid down by law.

- **Public sector** – the SDL includes specific provisions on the right to strike of the following categories of employees:³⁷
 - civil servants may call a strike in accordance with the procedure prescribed by the SDL;³⁸
 - the right to strike is prohibited for:³⁹
 - prosecutors and judges;
 - military personnel and staff with special status within the Ministry of National Defence, the Ministry of Administration and the Interior, the Ministry of Justice and of all institutions and structures subordinated to or coordinated by these ministries, including staff within the National Administration of Prisons, of the Romanian Intelligence Service, of the Foreign Intelligence Service and of the Special Communications Service, as well as personnel employed by foreign armed forces stationed on Romanian territory; and
 - other categories of personnel for whom the right to strike is forbidden by law;⁴⁰
 - there are restrictions on the right to strike for personnel in air, naval and terrestrial transportation services who may not call a strike starting with the moment of departure on mission until its completion;⁴¹
 - employees of establishments providing health care and social assistance, telecommunications, public radio and television broadcasting services, railway services, public transport, sanitation services, and gas, electricity, heating and water supplies are permitted to strike provided that a **minimum level of service** is ensured corresponding to at least one third of normal activity/services;⁴²
 - employees of undertakings belonging to the national energy system, the operative units from the nuclear sectors and of establishments where the activity cannot be interrupted may go on strike provided that at least **one third of the activity** is ensured so that the life and health of the population is not endangered and to ensure the safe operation of the installations concerned.⁴³

Article 43 of the Constitution employs the term '*provision of essential services*'. For services such as health care and social welfare, telecommunications, railways and public transport, public radio and television broadcasting, sanitation, as well as gas, electricity, heating and water supplies and nuclear energy (as provided by Articles 205 and 206 of the SDL), a **minimum level of service of at least one third of normal activity** is required by law.⁴⁴

It would appear that, under Romanian legislation, these services are considered to be '*essential*' for the community. For the above-mentioned services, the minimum level of service is established by law.⁴⁵

'Essential services in the strict sense of the term' have been defined by the ILO as those services 'whose interruption would endanger the life, personal safety or health of the whole or part of the population'.⁴⁶

5. Procedural requirements

- **Prior conditions:** A strike may be called provided that: all possibilities under the mandatory procedures for the settlement of disputes have been previously exhausted,⁴⁷ a warning strike has taken place and the organisers have informed the employer of the date of the strike at least two working days prior to the beginning of the strike.⁴⁸
- A strike can only be called if the **mandatory conciliation procedure** has been exhausted.⁴⁹ Differently, mediation is voluntary so strikes can be triggered even in the absence of a mediation attempt.⁵⁰ Mediation and arbitration are optional procedures and may be carried out only if both parties agree.⁵¹ The SDL stipulates that a strike may not be initiated while the mediation and arbitration procedures are taking place, or, where a strike has already been initiated, it may be suspended for the duration of such procedures.⁵²
- **Balloting mechanisms:** The decision to call a strike is taken by the **representative** trade unions involved in the collective dispute, with the written consent of at least half of the respective trade unions' members.⁵³ For employees of undertakings that do not have representative trade unions, the decision to call a strike is taken by the **employees' representatives**, with the written approval of at least one quarter of the employees of the undertaking or of a branch or department thereof, as the case may be.⁵⁴
- **Notification:** A strike must be notified to the employer at least two working days prior to the beginning of the strike.⁵⁵
- Participation in a strike is voluntary. No one may be forced to participate or prevented from participating in a strike. Employees who are on strike must refrain from any action which may prevent non-striking employees from performing their work.⁵⁶
- During the strike, its organisers may continue negotiating with the employer with a view to settling the collective dispute. During the negotiations, the organisers of the strike and the employer may agree to suspend the strike temporarily. If they reach an agreement, the collective dispute is settled, and the strike ends. If the negotiations fail, the organisers may resume the strike action without having to observe the preliminary procedural requirements.⁵⁷
- Romanian legislation provides for a **peace obligation**.⁵⁸ According to Article 164 of the SDL, during the period of validity of a collective agreement, employees are not permitted to initiate a collective dispute (therefore including a strike).⁵⁹
- A **minimum level of services** must be ensured in essential services (see Section 4 above).
- **Lockout:** no conditions to initiate a lockout are provided for by the legislation.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- Participation in a strike as well as its organisation in accordance with the law (the SDL) does not constitute a breach of the employee's work duties and does not imply any sanctions. On the contrary, these provisions do not apply if the court finds the strike to be unlawful.⁶⁰
- The individual labour contract of an employee who participates in a strike is suspended for the entire duration of the strike. Consequently, during a strike, the employment rights of the striking workers, including salary rights, are suspended and only health insurance rights are maintained.⁶¹
- During a strike, the employer has the right to continue work operations with non-striking employees, while the strike organisers are bound to ensure the protection of goods and the continuous operation of machines and equipment in respect of services whose interruption could endanger the life or health of the population.⁶²
- The employer may not employ other employees to replace those who are on strike.⁶³
- Workers who do not participate in a strike may continue their work where possible and, this being the case, are entitled to receive their wages. If they are unable to perform their work, they are entitled to remuneration corresponding to at least 75% of their basic pay due to the temporary interruption of the employer's activity.⁶⁴
- According to Romanian law, trade unions may establish their own funds to assist their members.⁶⁵
- Romanian legislation does not provide for the right of the employer to declare a **lockout**, which has led to different views in doctrine regarding its admissibility or inadmissibility. Some⁶⁶ have held that the employer may resort to a lockout in grave situations which cannot be resolved other than by resorting to such action, and namely in circumstances where:
 - (i) it is necessary to ensure the maintenance of order and security, which are endangered by a strike that, if it were to continue, might trigger the legal liability of the employer;
 - (ii) the employer, due to the strike, is unable to ensure the proper functioning of the undertaking. It has also been postulated that a lockout would be justified as a means of counteracting an illegal strike.⁶⁷

Participation in an unlawful strike

- An employer who considers a strike to be illegal may request a court injunction to stop the strike. The competent court to hear the case is the court (tribunal) that has jurisdiction over the area where the undertaking is located. Within two working days of receiving the application, the court will summon the parties and hold a hearing to decide the case. The

court may either reject the employer's application or admit the claim and consequently order that the strike is ended. The decision issued by the court is subject to appeal.⁶⁸

- When a strike has been found to be unlawful, the court may rule that the organisers of the strike and the employees who have participated in the strike are obliged to pay damages to the employer.⁶⁹
- The SDL provides for the following forms of liability⁷⁰:
 - (i) **civil liability** of the participants in the strike and its organisers in order to cover any damage caused to the employer during an unlawful strike;
 - (ii) **administrative liability** in the form of a fine of LEI 5,000 to 10,000 (approximately EUR 1,025 to 2,050) imposed on those who prevent an employer from continuing its operations with non-striking employees;⁷¹
 - (iii) **criminal liability** which may result in:
 - prison sentence of between 3 months and 2 years or a fine for anyone who uses threats or violence to force an employee or a group of employees to participate in or to work during a strike or to prevent an employee or a group of employees from participating in or working during a strike⁷² or
 - prison sentence of between 1 month and 1 year or a fine⁷³ where a strike is called by the organisers without their having observed the conditions laid down by Article 191(1) of the SDL (which states that no one may be forced to participate or prevented from participating in a strike), as well as the restrictions imposed by Articles 202 to 205 of the SDL (which prohibit the right to strike for members of certain professions such as judges, prosecutors and military personnel and impose a minimum level of service of at least one third of normal activity in the case of strikes in essential services).⁷⁴
- In the case of an unlawful strike, the cessation of work by employees is considered to be a wrongful act and a breach of work duties. The employer may initiate disciplinary proceedings, which in turn may lead to the dismissal of the workers involved.⁷⁵

7. Case law of international/European bodies

- **International Labour Organization (ILO)**

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

Direct Request (CEACR) – adopted 2019, published 109th ILC session (2021)⁷⁶

In its previous comments, the Committee had drawn the Government's attention to the need to amend section 29(3) of Law No. 188/1999 on the civil servant statute, which provides that **high-level civil servants or civil servants with budgetary responsibilities** are suspended if they choose to exercise activities in the management of a trade union. Noting from the Government's report that no progress has been achieved, the Committee wishes to recall that there are cases where it is not necessary for the civil servant to be suspended and that, therefore, it would be more appropriate to leave such matters for consultation with the organizations concerned. The Committee reiterates once again the need to amend section 29(3) of Law 188/1999 to ensure that high-level civil servants or civil servants with budgetary responsibilities are not automatically suspended when they choose to exercise activities in the management of a trade union, and that the matter is the subject of consultations with the organizations concerned.

In its previous comments, the Committee had requested the Government to take measures to amend section 205 of the Social Dialogue Law, which establishes **minimum services** by law, to allow for minimum services in the relevant sectors to be negotiated by the social partners concerned, and, in the absence of agreement, to be determined by an independent body. The Committee notes that no progress has been achieved in this regard. The Committee expects that the Government will take the necessary measures to amend section 205 of the Social Dialogue Law to allow for minimum services in the relevant sectors to be negotiated by the social partners concerned, and, in the absence of agreement, to be determined by an independent body.

With respect to the issue of **wage payments to public servants on strike**, the Committee notes the Government's indication that provisions of section 30 of the Law No. 188/1999 are corroborated by provisions of sections 195 and 207 of the SDL (maintenance of health insurance right during the suspension), and that salary deductions during the strike may be imposed without infringing the principles related to the exercise of trade union freedom. The Government adds that it has no data on cases of suspension of service/individual employment contracts and non-payment of wage rights during a strike. The Committee recalls that the concern raised relates to the payment of wages by the public employer, and that in imposing the suspension of such payment for all strikes, the provision restricts the freedom of the public employer and the unions concerned to agree otherwise. The Committee thus invites the Government to amend section 30(2) of Law No. 188/1999 so that the suspension of wages of public servants on strike can be the subject of negotiation between the parties concerned.

- **European Social Charter**

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

Conclusions 2018⁷⁷ – Entitlement to call a collective action

The Committee found in its previous conclusions (Conclusions 2002, 2004, 2006, 2010, 2014) that the situation was not in conformity with Article 6§4 of the Charter, on the grounds that a trade union can only take collective action if it meets representativeness criteria and if the strike is approved by at least half of the respective trade union's members.

The Committee observes that the situation has not changed. Therefore, the situation remains to be not in conformity with the Charter on this point.

Specific restrictions to the right to strike and procedural requirements

The Committee previously requested further information on the categories of persons whose right to strike is restricted.

In addition to the categories described in the previous report (judges, prosecutors, military staff with special status in the Ministry of Defence, Intelligence Service etc.), the report states that persons employed in air, road or water transport cannot strike whilst on duty. The Committee asks for clarification of what in fact this means. Meanwhile it reserves its position on this issue. The Committee asks whether members of the prison service have the right to strike.

The Committee refers to its question on the right of members of the police to strike.

As regards the provision of a minimum service during a strike, the Committee asks whether there are sectors where the provision of a minimum service is required and if so whether the social partners are involved in the discussions on the minimum service to be provided on an equal footing.

Conclusion: The Committee concludes that the situation in Romania is not in conformity with Article 6§4 of the Charter on the ground that a trade union can only take collective action if it meets representativeness criteria and if the strike is approved by at least half of the respective trade union's members.

Conclusions 2014

In its Conclusions 2014 on Article 6(4), the ECSR found that the situation in Romania was not in conformity with Article 6(4) of the Charter on the ground that only representative trade unions may take collective action.⁷⁸ In this connection, the Committee noted that, according to Article 183 of the Social Dialogue Law, the right to call a strike belongs to the representative trade unions involved in the conflict, and it requires the written approval of at least half of the respective trade unions' members. The Committee recalled that it had previously held that limiting the right to call a strike to the representative or the most

representative trade unions constitutes a restriction which is not in conformity with Article 6(4) of the Charter (Conclusions XV-1 (2000) France).⁷⁹

The Committee further noted that the Social Dialogue Law provides for restrictions of the right to strike for some categories of personnel from the defence, public order and national security sector. According to the provisions of Article 202 of the Social Dialogue Law, the following categories are prohibited from exercising the right to strike: prosecutors, judges, military personnel and staff with special status within the Ministry of National Defence, the Ministry of Administration and the Interior, the Ministry of Justice and of all institutions or structures subordinated to or coordinated by these ministries, including staff within the National Administration of Prisons, of the Romanian Intelligence Service, of the Foreign Intelligence Service and of the Special Communications Service, as well as personnel employed by foreign armed forces stationed on Romanian territory.

The Committee recalled that the right to strike of certain categories of public officials may be restricted. Under Article G of the European Social Charter, these restrictions should be limited to public officials whose duties and functions, given their nature or level of responsibility, are directly related to national security, general interest, etc. (Conclusions I (1969) Statement of Interpretation on Article 6(4)). The Committee observed that the restrictions imposed on the categories listed above do not go beyond the margin of appreciation enjoyed by the State.⁸⁰

The Committee also noted that Article 202 of the Social Dialogue Law provides that the restriction on the right to strike also refers to other categories of personnel with respect to whom the exercise of the right to strike is forbidden by law. The Committee asked whether, to whom and in what circumstances the latter provision is being applied in practice.⁸¹

As regards the restrictions applicable within key sectors, such as telecommunications, nuclear and national energy systems, firefighting services, and gas, energy and water supply, the Committee noted that the right to strike is permitted provided that at least one third of the activity is ensured, in order to guarantee some minimum services and in order to protect the life and health of the people (Articles 205 and 206 of the Social Dialogue Law).⁸²

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Notes

- 1 Status of ratification by Romania of UN treaties: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> (accessed on 30 December 2020).
- 2 Status of ratification by Romania of ILO conventions: http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102824 (accessed on 30 December 2020); see also Clauwaert, S. and Warneck, W. (2008) *Better defending and promoting trade union rights in the public sector. Part I: Summary of available tools and action points*, Report 105, Brussels: ETUI, p. 72.
- 3 Status of ratification of the Revised European Social Charter: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=jPYjkVEL (accessed on 30 December 2020).
- 4 Status of ratification 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 30 December 2020).
- 5 Status of ECHR ratifications: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL (accessed on 30 December 2020).
- 6 The Constitution of Romania was adopted on 21 November 1991 and revised following a referendum held in October 2003; the amended version of the Constitution came into force on 29 October 2003.
- 7 Chamber of Deputies of Romania, Constitution, available at (in English): http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0sba40 (accessed 30 December 2020) and Warneck, W. (2007) *Strike rules in the EU27 and beyond: A comparative overview*, Report 103, Brussels: ETUI-REHS, p. 60.
- 8 The text of Law No. 62/2011 concerning social dialogue, consolidated version as of December 2020, is available in Romanian at: <http://legislatie.just.ro/Public/DetaliiDocument/128345>.
- 9 The Labour Code (consolidated version as of December 2020, in Romanian) available at: <https://www.iprotectiamuncii.ro/codul-muncii-actualizat-2021>.
- 10 An 'undertaking' is defined by Article 1(k) of the SDL as 'a legal entity that directly employs workers'.
- 11 Article 190 of the SDL.
- 12 See 13th National Report on the implementation of the European Social Charter submitted by Romania; see information provided on Article 6(4), available at: <https://rm.coe.int/1680488926>.
- 13 See 17th National Report on the implementation of the European Social Charter submitted by the Government of Romania, 10 January 2018, p. 31 available at: <https://rm.coe.int/17th-report-from-the-government-of-romania/168077e39d>.
- 14 *Ibid.*
- 15 Article 183(1) of the SDL.
- 16 Article 183(2) of the SDL.
- 17 Article 186(2) of the SDL.
- 18 Ticlea, A. and Ticlea, T., *Regulation of the right to strike*, available at: <http://scioperi.cgil.it/Europa/Romania.pdf>.
- 19 See Article 43 of the Constitution.
- 20 Article 234(1) of the Labour Code and Article 181 of the SDL.
- 21 Ticlea, A. and Ticlea, T., *Regulation of the right to strike*, available at: <http://scioperi.cgil.it/Europa/Romania.pdf>.
- 22 The lawfulness of a strike is conditioned by the compulsory procedure of conciliation between parties. Mediation and arbitration procedures are subject to the mutual agreement of the parties involved in the collective dispute. See Articles 167 to 180 of the SDL.
- 23 Article 182 of the SDL.
- 24 Article 184 of the SDL; see also ETUI Report 103, p. 9, table: 'Types of collective action', and p. 60.
- 25 Article 186(1) of the SDL; and EUROFOUND, *Living and working in Romania*, Country profile, 15 October 2020, available at: <https://www.eurofound.europa.eu/fr/country/romania#industrial-action-and-disputes>.
- 26 Article 186(3) of the SDL.
- 27 Article 186(2) of the SDL; ECSR, Conclusions 2014, Romania, Article 6(4).
- 28 Article 185 of the SDL.
- 29 Article 182 of the SDL.
- 30 Chivu, L., Ciutacu, C., Dimitriu, R. and Ticlea, T. (2013), *The Impact of Legislative Reforms on Industrial Relations in Romania*, eds: Hayter, S., Mihes, C. and Vargha, C., Budapest: ILO, Annex 6, available at: http://www.epsu.org/sites/default/files/article/files/ILO_Romania_-_Impact_legislative_reform_on_IR.pdf.
- 31 Article 190(2) of the SDL; and ETUI Report 103, p. 60.
- 32 Ticlea, A. and Ticlea, T., *Regulation of the right to strike*, available at: <http://scioperi.cgil.it/Europa/Romania.pdf>.
- 33 *Ibid.* The authors note that political measures sometimes affect the occupational interests of workers, and that this justifies the allegation of certain political claims pursued through strike action. The major strikes that took place in Romania from 1990 onwards also involved political claims, since the strikers demanded, *inter alia*, 'the stoppage of

the fraudulent bankruptcy of industry and agriculture’, criticised the ‘economic policy’ of the State and sought the resignation of the Government, the Prime Minister and even the President.

34 Article 157 of the SDL; see also ILO CEELEX, Romania, 2019, 6.4.1 ‘Restriction of strikes based on their aims/goals’, available at:

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

35 Ticlea, A. and Ticlea, T., *Regulation of the right to strike*, available at: <http://scioperi.cgil.it/Europa/Romania.pdf> and EUROFOUND, *Living and working in Romania*, Country profile, 15 October 2020, available at:

<https://www.eurofound.europa.eu/fr/country/romania#industrial-action-and-disputes>.

36 Article 183 (2) of the SDL; see ILO CEELEX, Romania, 2019, 6.4.3.2 ‘Wildcat’, available at:

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

37 ECSR, Conclusions 2014, Romania, Article 6(4).

38 Article 207 of the SDL; see also Article 30 of Law No. 188/1999 on the status of civil servants which provides that ‘(1) Civil servants shall have the right to strike under the conditions laid down by law. (2) Civil servants on strike shall not be entitled to salary or any other salary-related rights during the strike.’

39 Article 202 of the SDL.

40 ECSR, Conclusions 2014, Romania, Article 6(4) available at : <http://hudoc.esc.coe.int/eng?i=2014/def/ROU/6/4/EN>.

41 Articles 203 and 204 of the SDL.

42 Article 205 of the SDL.

43 Article 206 of the SDL.

44 Articles 205 and 206 of the SDL ; see also ILO CEELEX, Romania, 2019, 6.4.4.2 ‘Essential services’, available at:

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

45 See ILO CEACR, Direct Request – adopted 2019, published 109th ILC session (2021), detailed in section 7 in which the ILO CEACR ‘*expects that the Government will take the necessary measures to amend Section 205 of the Social Dialogue Act to allow for minimum services in the relevant sectors to be negotiated by the social partners concerned, and, in the absence of agreement, to be determined by an independent body*’, see note 76 below.

46 Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6th edition, 2018, Chapter 10, paras. 836 - 841 – ILO CFA has defined and listed as “*essential services in the strict sense of the term*” where the right to strike may be subject to restrictions or even prohibitions, the following: the hospital sector, electricity services, water supply services, the telephone service, the police and armed forces, the fire-fighting services, public or private prison services, the provision of food to pupils of school age and the cleaning of schools, air traffic control. The ILO CFA has stressed that compensatory guarantees should be provided to workers in the event of prohibition of strikes in essential services, see paras. 853 - 863; See also Clauwaert, S. and Warneck, W. (2008) *Better defending and promoting trade union rights in the public sector. Part I: Summary of available tools and action points*, Report 105, Brussels: ETUI, pp. 79-81.

47 The lawfulness of a strike is conditioned by the compulsory procedure of conciliation between parties. Mediation and arbitration procedures are subject to the mutual agreement of the parties involved in the collective dispute. See Articles 167 to 180 of the SDL.

48 Article 182 of the SDL.

49 Article 182 of the SDL.

50 ILO CEELEX, Romania, 2019, 6.3.3 ‘Exhaustion of conciliation/mediation and arbitration procedures prior to strike’, available

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

51 ETUI Report 103, p. 60.

52 Articles 188 and 197(3) of the SDL, and ECSR, Conclusions 2014, Romania, Article 6(4).

53 Article 183(1) of the SDL.

54 Article 183(2) of the SDL.

55 Article 182 of the SDL; see also ILO CEELEX, Romania, 2019, 6.3.2 ‘Strike notice’, available at:

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

56 Articles 191 and 192 of the SDL.

57 Article 197 of the SDL, and ECSR, Conclusions 2014, Romania, Article 6(4).

58 ETUI Report 103, pp. 10 and 60.

59 Article 164 of the SDL; see also ILO CEELEX, Romania, 2019, 6.4.5 ‘Strike restrictions during the lifetime of a collective agreement (social peace clause)’, available at:

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

60 Article 196 of the SDL and Article 235 of the Labour Code.

61 Article 195(1) of the SDL.

62 Articles 193(1) and 194(1) of the SDL.

63 Article 194(2) of the SDL.

64 Article 53(1) of the Labour Code.

65 Article 25 of the SDL.

66 Ticlea, A. and Ticlea, T., *Regulation of the right to strike*, available at: <http://scioperi.cgil.it/Europa/Romania.pdf>.

67 *Ibid*.

68 Articles 198 to 201 of the SDL; ECSR, Conclusions 2014, Romania, Article 6(4), available at :

<http://hudoc.esc.coe.int/eng?i=2014/def/ROU/6/4/EN>.

69 Article 201(2) of the SDL.

70 ILO CEELEX, Romania, 2019, 6.4.9 ‘Sanctions on illegal strikes’, available at:

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

71 Article 217(1)(e) of the SDL.

72 Article 218(1) of the SDL.

73 Article 218(4) of the SDL.

74 See Article 191(1) of the SDL, Articles 202 to 205 of the SDL and Section 4 of this factsheet

75 See Article 248 of the Labour Code.

76 ILO CEACR, Direct Request – adopted 2019, published 109th ILC session (2021), Convention No. 87, available at:

https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:4024093,102824,Romania,2019.

77 ECSR, Conclusions 2018, Romania, Article 6(4), available at: <http://hudoc.esc.coe.int/eng?i=2018/def/ROU/6/4/EN>.

78 ECSR, Conclusions 2014, Romania, Article 6(4), available at: <http://hudoc.esc.coe.int/eng?i=2014/def/ROU/6/4/EN>.

79 *Ibid*; see also ECSR, Conclusions 2002, 2004, 2006 and 2010, Romania, Article 6(4), available at:

<https://hudoc.esc.coe.int/eng#%7B%22sort%22:%5B%22ESCPublicationDate%20Descending%22%5D,%22ESCArticle%22:%5B%2206-04-000%22,%22ESCDcLanguage%22:%5B%22ENG%22%5D,%22ESCDcType%22:%5B%22Conclusion%22%5D,%22ESCStateParty%22:%5B%22ROU%22%5D%7D> .

80 ECSR, Conclusions 2014, Romania, Article 6(4).

81 *Ibid*.

82 *Ibid*.