



The right to strike in the public services

Serbia



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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 Serbian EPSU affiliates for comment.

1. Legal basis

International level

Serbia has ratified:

UN instruments¹

International Covenant on Economic, Social and Cultural Rights

(ICESR, Article 8)

International Covenant on Civil and Political Rights

(ICCPR, Article 22) on 12.03.2001 (through succession)

ILO instruments²

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

(ratification on 24.11.2000)

Convention No. 98 on the Right to Organise and to Collective Bargaining

(ratification on 24.11.2000)

European level

Serbia has ratified:

Article 6§4 (right to collective action) of the Revised European Social Charter of 1996

with exception in regard to professional military personnel of the Serbian Army

(ratification: 14.09.2009, entry into force: 01.11.2009)³

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

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

(ratification and entry into force on 03.03.2004)⁵

National level

The Constitution of Serbia

Under Article 61 of the Constitution *“The employed shall have the right to strike in accordance with the law and collective agreement. The right to strike may be restricted only by law, in accordance with the nature or type of business activity”*.⁶

Applicable laws

- **In general:** the Law on Strike⁷ defines a strike as an interruption of work organised by employees for the purpose of protecting their professional and economic interests regarding their labour.⁸
- **Specific laws for certain sectors:** the Law on Strike⁹ provides specific conditions and requirements for strikes in activities of **general interest**, the interruption of which may, due to the nature of the activity, endanger the life and health of people or inflict a large scale damage (see Section 4 below).
- The case law is not rich. As indicated above, the right to strike is explicitly recognised by the Constitution and ordinary statutory law.
- **The role of collective agreements.** According to the Constitution, the employed shall have the right to strike in accordance with the law and collective agreement.¹⁰

2. Who has the right to call a strike?

According to the Law on Strike, a strike may be organised within an undertaking or any other legal person and/or its section, or within a natural person pursuing an economic or any other activity or providing services, or it may be organised in a branch/activity or as a general strike.¹¹

The decision to call a strike at **company level** shall be taken by the trade union body that has been designated through the decision of the trade union or by the majority of workers.¹²

The decision to call a strike at the **level of a branch of economic sector** shall be taken by the competent trade union body. The decision to call a **general strike** shall be taken by the highest level trade union body in the country.¹³

3. Definition of strike

The Law on Strike establishes the following types of strikes:

- A strike is defined as an **interruption of work** organised by employees for the purpose of protecting their professional and economic interests regarding their labour (Article 1 of the Law on Strike);
- A **warning strike** may be organised which may not exceed one hour (Article 2 of the Law on Strike).¹⁴

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

It was reported that, traditionally, strikes often include street protests as a way of seeking solidarity from the wider public and exerting political pressure on employers (the practice goes back to the time of late socialism in the 1980s). Such protests are not regulated by the Law on strike.¹⁵

4. Who can participate in a strike?

As mentioned above, Article 61 of the Constitution guarantees the right to strike for employees. The right to strike may be restricted only by law in accordance with the nature or type of business activity.¹⁶

According to the Law on Strike, employees decide freely on their participation in a strike.¹⁷

An employer must not prevent an employee from participating in a strike or exert any coercive measures to bring the strike to end, nor provide higher wages or other more favourable working conditions for the employees who do not participate in the strike on grounds of their non-participation in the strike.¹⁸

Limitations of the right to strike

According to Constitution *“The right to strike may be restricted only by law, in accordance with the nature or type of business activity.”*

It was noted that no restrictions are provided for under the Law on Strike regarding undertaking a strike action by **civil servants**, or under the Law on Civil Servants.¹⁹

Essential services/activities

Under Article 9 of the Law on Strike, in case of activities of general interest or activities the interruption of which, due to the nature of such activities, could jeopardise the life and health of people or inflict a large scale damage, the right to strike may be exercised if the special conditions/requirements established by this Law [Law on Strike] are fulfilled.

The **activities of general interest**, within the meaning of the Law on Strike, shall be the activities undertaken in the following areas: **power energy sector, water management, transport, media** (radio and television broadcasting), **postal services, public utility services, processing of staple food, human and animal health care, education, child care and social welfare/security**.

Also, within the meaning of the same Law, the activities of general interest include those of relevance for **national defence and security** as identified by a competent authority under the law, and the activities necessary for **fulfilment of international obligations**. An activity the interruption of which by its nature, within the meaning of the Law, could endanger the life and health of people and cause damage of large proportions include: **chemical industry, steel industry, and ferrous and non-ferrous metallurgy**.²⁰ It was also noted that in Serbia, primary education is mandatory, but that however, it is possible to undertake a strike action in the sector under condition that minimum essential services are ensured.²¹

It is of relevance that the **“essential services in the strict sense of the term”** have been defined by the ILO as those services *“the interruption of which would endanger the life, personal safety or health of the whole or part of the population.”*²²

Under Article 10 of the Law on Strike, employees performing the activities referred to above (listed by Article 9 of the Law on Strike) may strike if a **minimum work level** is ensured for the security of people and property or it is indispensable for citizens' lives and work or the work of another undertaking, such as a legal or natural person performing an economic or other activity or providing services.²³

Such minimum work level for public services and public enterprises shall be defined by its director. When identifying minimum services, the following shall be taken into account: **the nature of the activity, the degree of threat to life and health of people**, and other circumstances relevant for **satisfying the needs of citizens**, undertakings or other entities (i.e. they will take into account the season of the year, whether it is tourist season in course, school year, etc.).²⁴

As regards the procedure, the Law on Strike provides that when defining minimum essential services, the director shall take into account the opinions, observations and proposals of the trade unions; the manner of securing minimum essential services shall be determined in the company policy/general act of the employer, as provided for under collective agreement.²⁵

After obtaining the opinion of the strike committee, the director shall determine the employees who are obliged to work during a strike so that minimum essential services are ensured, no later than five days prior to the beginning of the strike.²⁶ In case five days before the start of the strike at the latest, the conditions described above are not fulfilled, the competent state authority/body or the competent local government authority/body, shall determine the measures and the manner of meeting such conditions by the date established for the commencement of the strike.²⁷

Under Article 12 of the Law on Strike, when a strike is organised in the activities of general interest (referred to in Article 9 of the Law), in addition to the obligation under Article 6 of the Law to make efforts to resolve the issue amicably, the strike committee, the employer and the representatives of the competent state body or the local government body are obliged to (within the period from the date of notification of the strike to the date set for the beginning of the strike) table the proposal for settling the issue and inform the workers who announced the strike and the public about this proposal.²⁸

The Law on Strike also provides that, during a strike, the strike committee shall cooperate with the employer in order to ensure minimum essential services as described above (under Article 10 of the Law).²⁹ With regard to the procedural aspects, it was indicated that according to the Law on Amicable Resolution of Labour Disputes, in case of a strike organised in the activities of general interest, the **conciliation procedure** is mandatory for the parties to settle the dispute (and not arbitration).³⁰

In case of employees in activities of **general interest** (defined in Article 9 of the Law on Strike), the refusal to execute an employer's order issued for the purpose of securing minimum services

constitutes a violation of the work duty for which a measure of termination of employment contract may be imposed.³¹

Employers are not allowed to employ new persons to replace striking employees, unless the safety of persons and property are jeopardized as well as the maintenance of the **minimum work level in essential services**, including the fulfilment of international obligations.³²

Rules for specific sectors

- **Armed Forces**

Members of the Armed Forces do not have the right to strike.³³

A member of the Army must be dismissed if he/she has organised a strike or has participated in strike action.³⁴

- **Security Agency**

Members of Security Agency do not have the right to form trade unions or the right to strike.³⁵

- **Police**

Police officers are not entitled to strike in the event of a state of war, state of emergency or increased risk; violent threat to the constitutional order; declaration of disaster or imminent danger; other disasters and accidents interfering with the normal course of life and endangering the safety of people and property; in case they are employed in workplaces where there are no conditions for ensuring minimum work process.³⁶

5. Procedural requirements

- **Balloting mechanisms:** The decision to call a strike at company level shall be taken by the trade union body that has been designated by the decision of the trade union or by the majority of workers. The decision to call a strike at the level of a branch of economic sector shall be taken by the competent trade union body. The decision to call a general strike shall be taken by the highest level trade union body in the country;³⁷
- The decision **announcing the strike** shall include in particular: the workers' demands, date and time of its commencement, the place where strikers will be gathering, if their strike is manifested as a gathering of workers. The decision shall also include the composition of the strike committee representing the interests of the workers who will run the strike on their behalf;³⁸
- **Notification:** The strike committee is obliged to announce the strike by submitting to the employer the decision on calling the strike no later than five days prior to the day established for its commencement and twenty-four hours before the start of the warning strike. The decision to call a strike by employees in a branch or activity or a general strike shall be submitted to the competent body of the appropriate association of employers, the founder and the competent state authority;³⁹
- If the strike is manifested as a gathering of employees, the meeting place cannot be outside the business operating/working premises or outside the business premises;⁴⁰
- In the activities referred to in Article 9 of the Law on Strike (activities of general interest), the strike shall be announced to the employer, the competent state authority and the competent local self-government authority no later than ten days before the start of the strike, by submitting a decision on calling the strike and a statement on the manner of securing the minimum work level in accordance with Article 10 (1) of the Law on Strike;⁴¹
- The **strike committee** and state body representatives must, from the day of the strike notice and during the strike, try to settle the dispute by mutual agreement (general rule).⁴² In cases involving essential services, the parties to a dispute must attempt to solve the dispute by mutual agreement from the day of strike notice until the beginning of the strike and to offer a proposal for resolving the dispute and to inform the employees who announced the strike and the public with the proposal (see Section 4 above);⁴³
- The strike committee and the striking employees are obliged to organise and conduct the strike in a way that does not jeopardise the **safety of persons**, property and human health, prevents immediate pecuniary damage and allows the continuation of work after the end of the strike;⁴⁴
- The strike committee and the employees on strike cannot prevent an employer from using funds and disposing of the means by which the activity is performed. The strike committee

and the employees on strike may not prevent employees who are not on strike from working;⁴⁵

- A **minimum work level** must be ensured in activities of general interest (see Section 4 above);⁴⁶
- Workers freely decide on their participation in the strike;⁴⁷
- **No peace obligation** exists. The legislation does not provide for such obligation.

6. Legal consequences of participating in a strike

Participation in a lawful strike

- Organising a strike or participating in a strike under conditions as set under the Law on Strike does not constitute a violation of work obligation, cannot be the basis for starting a procedure for determining disciplinary and material responsibility of the employee and cannot result in the termination of an employee's employment relationship.⁴⁸
- It was indicated that the worker on strike shall exercise all the core labour rights, except for the right to salary/wage, and shall be entitled to social insurance in accordance with the regulations on social insurance.⁴⁹ Article 14 (2) of the Law on Strike provides that: *“An employee who participates in a strike enjoys basic rights from employment, with the exception of the right to salary, and social security rights in accordance with the regulations on social insurance.”*
- In case of employees in **activities of general interest** (defined in Article 9 of the Law on Strike), the refusal to execute an employer's order issued for the purpose of securing minimum services constitutes a violation of the work duty for which a measure of termination of employment contract may be imposed.⁵⁰
- Under Article 15 of the Law on Strike, in the course of a strike organised under terms and conditions of the Law, the employment of new workers to replace the workers on strike shall be forbidden, unless the safety of persons and property is jeopardised (in the sense of Article 7(1) of the Law), the maintenance of minimum services that ensure the safety or property and persons, as well as the performance of international obligations (in the sense of Articles 9 and 10 of this Law).⁵¹
- Legislation does not provide for a right of employers to **lock-out** workers.⁵²
- Under Article 166 of the Criminal Code, the violation of the right to strike is criminalised, and therefore whoever by force, threat or in other unlawful manner prevents or obstructs employees to organise a strike in accordance with the law, participate in a strike or otherwise exercise their right to strike, shall be sanctioned with **a fine or imprisonment** of up to two years.

The same penalty shall be imposed on an employer or responsible officer who terminates the employment of one or more employees due to their participation in a strike organised in accordance with the law, or institutes other measures violating their labour rights.⁵³

Participation in an unlawful strike

- The strike organisers, and/or participants in a strike that is not organised in accordance to the law may not enjoy the protection guaranteed in case of lawful strikes.⁵⁴
- A situation when a member of a strike committee or participant in a strike organises and runs the strike in a manner that **endangers the safety of persons** and property or human health or which prevents employees who are not on strike to work, prevents the continuation of work after the end of the strike or prevents an employer from using funds and dispose of the means by which the employer carries out the activity, constitutes a violation of the work duty for which a measure of termination of employment may be imposed.⁵⁵
- A member of the Army must be dismissed if he/she has organised a strike or has participated in strike action.⁵⁶
- A fine of 40,000 to 50,000 dinars (about EUR 340 to EUR 425) shall be imposed for the following offences: if a member of the strike committee or employee prevents employees not participating in the strike to work; if an employee refuses to cooperate during the strike with the employer in order to ensure the minimum work process in the activities envisaged by this Law or refuses to execute the orders of the employer.⁵⁷
- According to Article 167 of the Criminal Code, whoever organises or leads a strike in a way which is contrary to the law or regulations and thereby endangers human life and health or property to a considerable extent, or if grave consequences result therefrom, shall be sanctioned with **imprisonment** of up to three years unless other criminal offences prevail.⁵⁸

7. Case law of international/European bodies

International Labour Organisation

The Committee of Experts on the Application of Conventions and Recommendations (CEACR)⁵⁹

*Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021)*⁶⁰

Penal sanctions for strikes. The Committee had previously noted that, according to section 167 of the Criminal Code, whoever organizes or leads a strike in a way which is contrary to the law or regulations and thereby endangers human life and health or property to a considerable extent, or if grave consequences result therefrom, shall be punished with imprisonment of up to three years unless other criminal offences prevail.

The Committee had recalled that no penal sanction should be imposed against a worker for having carried out a peaceful strike, and therefore measures of imprisonment should not be imposed on any account, and that penal sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights have been committed and could be imposed pursuant to legislation punishing such acts.

The Committee had noted the Government's indication that in amending the Act it would take into account the Act's conformity with the Convention, and the Committee had therefore expressed its hope that the Government would take all the necessary measures, in full consultation with the social partners, to amend section 167 of the Criminal Code.

The Committee noted the statement given by the Ministry of Justice through a letter, attached to the Government's report, that for the criminal offence prescribed in section 167 to be committed, three conditions should be fulfilled:

- (i) that the strike is contrary to the law;
- (ii) that the offender is an organizer of illegal strikes; and
- (iii) that by organizing or leading the strike in a way contrary to law or other regulations, human life and health or property of considerable extent are endangered or grave consequences result therefrom.

The Committee welcomed the Ministry of Justice's concluding statement that section 167 of the Criminal Code cannot lead to the imposition of criminal sanctions for peaceful strikes. Duly noting the information provided by the Government, the Committee requested it to provide information on the application in practice of section 167 of the Criminal Code, including copies of the relevant court decisions and indication of the penalties imposed.

Minimum services. In its previous comments, the Committee had noted that, according to Section 10 of the Act on Strikes, in the case of strikes involving "activities in the general interest", the employer has the power to determine unilaterally the minimum services after

having consulted with the union, and that, if such services are not determined within a five-day period prior to a strike, the competent public authority or the local self-government body takes the necessary decisions.

The Committee had recalled that, in order to ensure that users' basic needs are met or that facilities operate safely or without interruption, the introduction of a negotiated minimum service could be appropriate in the event of strikes but should only be possible in certain situations, namely:

- (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term);
- (ii) in services which are not essential in the strict sense of the term, but in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population and;
- (iii) in public services of fundamental importance.

The Committee had further recalled that any disagreement on minimum services should be resolved, not by the Government authorities, but by a joint or independent body that has the confidence of the parties, is responsible for examining rapidly and without formalities the difficulties raised and is empowered to issue enforceable decisions.

The Committee had noted the Government's indication that a working group established to prepare amendments to the Act on strikes was working on the issue and would take into particular consideration the issue of minimum services. The Committee noted the Government's indication that: (i) there was a public debate, conducted between 20 April and 10 May 2018 with the participation of the stakeholders, on the Draft Law on Strike, prepared by the Ministry of Labour, Employment, Veteran and Social Affairs; (ii) the working group tasked with the developments of the Draft Law met on 7 May 2018, having reviewed and agreed upon the remarks, suggestions and proposals to the Draft made during the public debate; (iii) the Ministry gathered the opinions on the Draft Law from the public administration authorities and other organizations and the Bill is expected to be adopted by the Government; and (iv) the Draft Law on Strike was delivered to the European Commission on 28 June 2018.

On the other hand, the Committee noted that: (i) the Trade Union Confederation "Nezavisnost" (TUC Nezavisnost) stated that the definition of essential services in the proposed Draft Law is too broad and did not receive the approval of the social partners; and (ii) the Confederation of Autonomous Trade Unions of Serbia (CATUS) alleged that the trade unions' opinions had not been taken into consideration in the discussions and all changes in the area of legislation were being made in agreement with institutions that had not been registered as representative social partners.

The Committee expected that the process of revising the relevant legislation be conducted in full consultation with the social partners and that due account be taken of the Committee's comments. The Committee requested the Government to provide information on any further

progress made in this regard, particularly concerning the amendment of section 10 of the Act on strikes, and to provide a copy of the Law once adopted.

European Social Charter

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

Conclusions 2018 - Serbia - Article 6§4⁶¹

In its most recent conclusions, the ECSR noted and concluded the following:

Collective action - definition and permitted objectives: no change to the situation in this respect.

Entitlement to call a collective action

The Committee previously requested information on who was entitled to call a strike. It notes that the report under Article 5 and 6§2 of the Charter seems to suggest that the right to call for collective action is restricted to the most representative trade unions and employers' associations. However, the information provided under Article 6§4 is unclear in this respect. The Committee recalls again its case law on the issue: 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 (Conclusions 2000 France).

The Committee considers that if the situation is not clarified in the next report there will be nothing to demonstrate that the situation is in conformity with the Charter.

Specific restrictions to the right to strike and procedural requirements

The Committee recalls that the Law on Strikes restricts strike action in a **wide number of sectors, namely those of “public interest”** or those in which a strike “could jeopardise the lives or health of the population or cause extensive damage”. In these sectors, strikes are allowed only under certain conditions stipulated by the law. According to the law, these sectors are: **the electricity-generating industry; water management; transport, media (radio and television); postal services; public and municipal services; production of staple foodstuffs; healthcare and veterinary services; education; childcare; social security and social protection; essential activities for national defence and security;** the performance of Serbia's international obligations and activities; or activities of which the interruption may, bearing in mind the very nature of the activity, jeopardise people's lives or health or cause extensive damage (for example, in the chemical, steel, ferrous or non-ferrous metallurgy industries). The report also states that employees in the sectors referred to above must give notice at least fifteen days before engaging in strike action and provide a “minimum service” (Conclusions 2014).

The Committee noted in this respect that the range of sectors where strike action was restricted was extensive and considered that as regards the sectors such as the postal services, education

and childcare sectors there was no information enabling the Committee to conclude that these services, or the other “general interest” services referred to in the law, may be regarded as “essential services” in the strictest sense of the term. In accordance with Article G of the Charter, essential services are activities that are necessary in a democratic society in order to protect the rights and freedoms of others or to protect the public interest, national security, public health, or morals. The Committee requested further information on the reasons for restrictions in these sectors.

The Committee notes the report provides no new information in this regard, and therefore concludes that the situation is not in conformity with Article 6§4 on the grounds that the sectors in which the right to strike may be restricted is overly extensive and it has not been demonstrated that the restrictions satisfy the conditions laid down in Article G of the Charter.

The Committee previously found the situation in Serbia not to be in conformity with the Charter on the grounds that when **establishing a minimum service** to be provided during a strike, workers (and or their organisations) are not involved on an equal footing with employers on the nature or degree of the minimum service to be provided. It had noted that employers had the power to unilaterally determine the minimum service required after only consulting the trade union. The Committee notes that there has been no change to this situation. Therefore it reiterates its previous conclusion of non-conformity.

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

Consequences of a strike: The report confirms that striking workers may not be dismissed.

Conclusion

The Committee concludes that the situation in Serbia is not in conformity with Article 6§4 of the Charter on the grounds that:

- Restrictions on the right to strike in certain sectors are too extensive and go beyond the limits permitted by Article G;
- When establishing a minimum service to be provided during a strike, workers (or their organisations) are not involved on an equal footing with employers when deciding on the nature or degree of the minimum service to be provided;
- Employers have the power to unilaterally determine the minimum service required during a strike.

8. Bibliography

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- The 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 48, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>.
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Notes

- 1 Status of ratification by Serbia of UN Treaties available at: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> , accessed on 17 December 2020
- 2 Status of ratification by Serbia of ILO Conventions available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102839, accessed on 17 December 2020
- 3 Status of ratification by Serbia of the Revised Charter of 1996 with Declarations available at : https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=ZPrR6Yru and <https://www.coe.int/en/web/turin-european-social-charter/signatures-ratifications>, accessed on 17 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 17 December 2020).
- 5 Status of ECHR ratifications available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL, accessed on 17 December 2020
- 6 Article 61 of the Constitution of Republic of Serbia, Official Gazette No. 98/2006, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74694/119555/F838981147/SRB74694%20Eng.pdf>; see also the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 7 The Law on Strike, Official Gazette of the Federal Republic of Yugoslavia No. 29/1996 and Official Gazette of the Republic of Serbia No. 101/2005 (in Serbian) as amended by OG No. 103/2012, available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=99921
- 8 Article 1 of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 46, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 9 Articles 9 - 13 of the Law on Strike
- 10 Article 61 (1) of the Constitution
- 11 Article 2 of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 48, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 12 Article 3(1) of the Law on Strike
- 13 Article 3(2) and (3) of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 48, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>, see also EUROFOUND, 'Living and Working in Serbia', Industrial action and disputes, 8 June 2018, available at: <https://www.eurofound.europa.eu/country/serbia#industrial-action-and-disputes>
- 14 Article 2 (2) and (3) of the Law on Strike
- 15 EUROFOUND, 'Living and Working in Serbia', Industrial action and disputes, 8 June 2018, available at: <https://www.eurofound.europa.eu/country/serbia#industrial-action-and-disputes>
- 16 See Article 61 of the Constitution of Serbia, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74694/119555/F838981147/SRB74694%20Eng.pdf>
- 17 Article 1 (2) of the Law on Strike
- 18 Article 15 of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 51, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 19 See the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 48, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 20 Article 9 of the Law on Strike; See the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 49, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>
- 21 *Idem*
- 22 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.

23 Article 10 (1) of the Law on Strike

24 Article 10 (2) of the Law on Strike

25 Article 10 (3) and (4) of the Law on Strike

26 Article 10 (5) of the Law on Strike

27 Article 10 (6) of the Law on Strike; See the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, pp. 49-50, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

28 Article 12 of the Law on Strike

29 Article 13 of the Law on Strike

30 The rules of conciliation procedure are laid down in Articles 18-29 of the Law on Amicable Resolution of Labour Disputes, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 50, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

31 Article 18 (3) of the Law on Strike

32 Article 15 of the Law on Strike

33 Article 14 (5) of the Law on the Serbian Armed Forces (in Serbian), available at : https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=99922

34 Article 18 (1) of the Law on Strike

35 Article 20(3) of the Law on Security Information Agency, available at: <https://bia.gov.rs/sites/default/files/inline-files/Zakon%20o%20BIA%202014eng.pdf>

36 Article 170 (2) of the Law on Police, see ILO CEELEX, Serbia, January 2020, available at: <https://www.ilo.org/dyn/ceelex/en/f?p=14100:1000::NO::>

37 Article 3 of the Law on Strike

38 Article 4 of the Law on Strike

39 Article 5 (1) and (2) of the Law on Strike

40 Article 5 (3) of the Law on Strike, see ITUC Survey of violations of trade union rights - Serbia, available at <https://survey.ituc-csi.org/Serbia.html?lang=en#tabs-2>

41 Article 11 of the Law on Strike

42 Article 6 of the Law on Strike

43 Article 12 of the Law on Strike

44 Article 7 of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 50, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

45 Article 7 of the Law on Strike

46 Article 10 of the Law on Strike

47 Article 1 of the Law on Strike

48 Article 14 (1) of the Law on Strike

49 See the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 50, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

50 Article 18 (3) of the Law on Strike

51 Article 15 of the Law on Strike, see the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 51, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

52 See ILO CEELEX, Serbia, 6.5 'Conditions to initiate a lock out', January 2020, available at: <https://www.ilo.org/dyn/ceelex/en/f?p=14100:1000::NO::>

53 See the 7th National Report on the implementation of the European Social Charter submitted by the Government of Serbia, 17 April 2018, p. 48, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

54 Article 14 (3) of the Law on Strike provides that "The strike organisers or participants in a strike that is not organised in accordance with this law, will not enjoy the protection set forth in paras. 1 and 2 of this Article" (namely protection against dismissal, basic rights derived from the employment).

55 Article 18 (2) of the Law on Strike

56 Article 18 (1) of the Law on Strike

57 Article 20 of the Law on Strike

58 See Direct Request (CEACR) adopted 2019, published 109th ILC session (2021), 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:4023453,102839,Serbia,2019

59 See Observations and Direct Requests of CEACR concerning the implementation of ILO Convention No. 87 in respect of Serbia, available at: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20010::NO:::>, accessed on 28 December 2020

60 Direct Request (CEACR) adopted 2019, published 109th ILC session (2021), 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:4023453,102839,Serbia,2019

61 ECSR, Conclusions 2018 on Article 6§4, in respect of Serbia available at:

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