



# The right to strike in the public sector

## Serbia

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This factsheet reflects the situation in November 2018 and was elaborated by Diana Balanescu (independent expert), reviewed by EPSU/ETUI; and sent to EPSU affiliates for comment.

## 1. Legal basis

### International level

Serbia has ratified:

#### UN instruments<sup>1</sup>

**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 instruments<sup>2</sup>

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

(24.11.2000)

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

(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)<sup>3</sup>

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

(ratification and entry into force on 03.03.2004)<sup>4</sup>

### 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”*.<sup>5</sup>

## Applicable laws

- **In general:** the Law on Strike (Official Gazette of Republic of Serbia No. 29/96 of 26 June 1996) defines a strike as a cease of work organised by workers for the purpose of protecting their occupational and economic interests based on labour.<sup>6</sup>
- **Specific laws for certain sectors:** the Law on Strike<sup>7</sup> 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.<sup>8</sup>

## 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 as a general strike.<sup>9</sup>

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.

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.<sup>10</sup>

### 3. Definition of strike

The Law on Strike establishes the following types of strikes:

- A strike is defined as a **cease of work** organised by workers for the purpose of protecting their occupational and economic interests based on 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).<sup>11</sup>

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.

#### 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.<sup>12</sup>

According to the Law on Strike, employees decide freely on their participation in a strike.<sup>13</sup>

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.<sup>14</sup>

##### 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.<sup>15</sup>

##### Essential services/activities

Under Article 9 of the Law on Strike, in case of activities of general interest or activities the interruption of which may, 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**.<sup>16</sup> 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.<sup>17</sup>

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.”*<sup>18</sup>

Under Article 10 of the Law on Strike, employees performing the activities referred to above (described/listed by Article 9 of the Law on Strike) may strike if **minimum essential services** are provided ensuring the safety of people and property or represents an irreplaceable condition for the life and work of citizens or the work of another undertaking, such as a legal or natural person performing an economic or other activity or providing services.<sup>19</sup>

Such minimum essential services for public services and public enterprises shall be defined by its founder, and in case the strike is organised in an undertaking or company which is not public enterprise or a public service, by the director. When identifying minimum essential 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.).<sup>20</sup>

As regards the procedure, the Law on Strike provides that when defining minimum essential services, the founder and/or 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.<sup>21</sup>

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, not later than five days prior to the beginning of the strike.<sup>22</sup> 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 commencing of the strike.<sup>23</sup>

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.<sup>24</sup>

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).<sup>25</sup> 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).<sup>26</sup>

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.<sup>27</sup>

## 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;<sup>28</sup>
- 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 protest is manifested as a gathering of workers. The decision shall also include the strike committee representing the interests of the workers who will run the strike on their behalf;<sup>29</sup>
- **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;<sup>30</sup>
- 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;<sup>31</sup>
- 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 founder, 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 process in accordance with Article 10 (1) of the Law on Strike;<sup>32</sup>
- The **strike committee** and representatives of the bodies to which the strike is announced are obliged, from the day of announcing the strike and during the strike, to resolve the dispute by mutual consent (general rule).<sup>33</sup> For activities of general interest, in addition, the parties are obliged to table the proposal for settling the issue and inform the workers who announced the strike and the public about this proposal (see Section 4 above);<sup>34</sup>
- 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;<sup>35</sup>
- 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;<sup>36</sup>

- The assurance of minimum services in activities of general interest (see Section 4 above);<sup>37</sup>
- Workers freely decide on their participation in the strike;<sup>38</sup>
- **No peace obligation** to be respected. The legislation does not provide for such obligation.

## 6. Legal consequences of participating in a strike

### Participation in 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.<sup>39</sup>
- [It was indicated that the worker on strike shall exercise all the core labour rights, except for the right to wages, and shall exercise social insurance rights under social insurance legislation.<sup>40</sup>] It was also noted that the Law on Strike states that participation in a strike can lead to suspension not only of wages, but also of social security rights.<sup>41</sup> 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 earnings, 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.<sup>42</sup>
- 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).<sup>43</sup>
- 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.<sup>44</sup>

## Participation in 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.<sup>45</sup>
- 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.<sup>46</sup>
- A professional member of the Army shall have his/her employment relationship terminated, if it is determined that he/she has organised a strike or has participated in a strike.<sup>47</sup>
- 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.<sup>48</sup>

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

### International Labour Organisation

#### The Committee of Experts on the Application of Conventions and Recommendations (CEACR)<sup>49</sup>

*Observation (CEACR) - adopted 2015, published 105th ILC session (2016)*<sup>50</sup>

In its previous observation, the Committee had noted:

- (i) the Government's indications to the 2011 Conference Committee that it had not been aware of the alleged physical assaults against union officials and members, especially in the educational and health-care sectors, claimed by the International Trade Union Confederation (ITUC) and the CATUS, and that, once provided with the relevant information, it would take the necessary steps to resolve the issue in accordance with the Convention and;
- (ii) the Conference Committee's request that the Government undertake without delay independent investigations into the allegations and report accordingly. The Committee also noted with concern the ITUC allegation of an attempted physical attack during a strike organised by the Independent Trade Union of Police (ITUP) and requested the Government to take the necessary measures to institute an independent inquiry into all alleged acts of violence against trade union officials or members and to ensure respect for the abovementioned principles.

The Committee noted that:

- (i) in respect of the allegations of physical assaults on trade union officials and members, particularly in the educational and health-care sectors, the Government indicated in its report that it requires more data to be able to take the necessary measures and that, as soon as additional information was received, competent authorities should take the necessary steps in accordance with the law and;
- (ii) in respect of the alleged attempt of physical attack during a strike organised by the ITUP, the Government indicated that it had already provided a reply on this issue. In this regard, the Committee observed that the Government previously indicated that the Ministry of Interior followed up a notification of such allegations submitted by the ITUP. Recalling that the right of workers' and employers' organisations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organisations, the Committee requested the Government to provide further information on the follow-up measures taken by the Ministry of Interior to investigate the alleged attempted assault during the strike organised by the ITUP, as well as the outcome of such investigation.

*Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016)*<sup>51</sup>

**Penal sanctions for strikes.** The Committee had previously noted that, according to section 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 punished with imprisonment of up to three years unless other criminal offences prevail.

The Committee 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 further recalled that any sanction for strike action must be proportionate to the seriousness of the violation. The Committee noted that the Government informed that in amending the Act on strikes it will take into account all the principles of the Convention. The Committee firmly hoped that all necessary measures will be taken, in full consultation with the social partners, to amend Section 167 of the Criminal Code to ensure conformity with the abovementioned principles.

**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 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 emphasised that such a service should meet at least two requirements:

- (i) it must genuinely and exclusively be a minimum service, that is one which is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear and;
- (ii) since this system restricts one of the essential means of pressure available to workers to defend their interests, their organisations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities.

The Committee further recalled that any disagreement on minimum services should be resolved, not by the government authorities, but by a joint or independent body which has the confidence of the parties, is responsible for examining rapidly and without formalities the difficulties raised and is empowered to issue enforceable decisions. In its previous direct request, the Committee noted the Government's indications 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 also noted that the Government had not provided further information on this issue. The Committee trusted that the process of revising the Act on strikes will be conducted soon in full consultation with the most representative workers' and employers' organisations and that due account will be taken, possibly with the technical assistance of the ILO, of the abovementioned principles.

Hoping that it will soon be in a position to observe progress on this matter, the Committee requested the Government to provide information on any developments in this regard, and to provide a copy of any amendments to the Act on Strikes once adopted and of any regulations relating to the exercise of the right to strike.

## **European Social Charter**

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

#### *Conclusions 2014 - Serbia - Article 6§4<sup>52</sup>*

With regard to specific restrictions on the right to strike, the Committee noted that the Law on Strike Action limits strike action in a 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 stated 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**". The Committee asked for clarification in the next report on whether restrictions on the right to strike are also prescribed by law with regard to civil servants in areas other than "**public interest**" sectors.

The Committee 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).

The Committee noted that the restrictions imposed on the right to strike by the Law on Strike Action apply to the postal services, education and childcare. The report did not contain any 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. 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 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** in a democratic society to achieve the aim of ensuring respect for the rights and freedoms of others or preventing threats to the public interest, national security, public health, or morals.

The Committee recalled that establishing a minimum service in essential sectors may be considered to be in conformity with Article 6§4 of the Charter (Conclusions XVII-1 (2004), Czech Republic). However, it is essential that, even if the final decision is based on objective criteria prescribed by law (such as the nature of the activity, the extent to which people's lives and health are endangered and other circumstances, such as the time of year, the tourist season or the academic year), workers or their representative bodies are regularly involved in determining, on an equal footing with employers, the nature of "**minimum service**". The Committee noted that in Serbia, there is no guarantee that workers will be involved in such procedures.

The Committee concluded that the situation in Serbia was **not in conformity** with Article 6§4 of the Charter, on the ground that workers are not involved on the same footing as employers during the procedures that are conducted to determine the "minimum service" required in connection with the restrictions on the right to strike with regard to some "general interest" services.

## Notes

<sup>1</sup> Status of ratification by Serbia of UN Treaties available at: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> , consulted on 6 November 2018

<sup>2</sup> 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](https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102839), consulted on 6 November 2018

<sup>3</sup> 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](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>, consulted on 6 November 2018

<sup>4</sup> Status of ECHR ratifications available at: [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p\\_auth=jPYjkVEL](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=jPYjkVEL), consulted on 6 November 2018

<sup>5</sup> See the 7<sup>th</sup> 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>

<sup>6</sup> Article 1 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>7</sup> Articles 9 - 13 of the Law on Strike

<sup>8</sup> Article 61 (1) of the Constitution

<sup>9</sup> Article 2 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>10</sup> Article 3 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>11</sup> Article 2 (2) and (3) of the Law on Strike

<sup>12</sup> See Article 61 of the Constitution of Serbia, available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/74694/119555/F838981147/SRB74694%20Eng.pdf>

<sup>13</sup> Article 1 (2) of the Law on Strike

<sup>14</sup> Article 15 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>15</sup> See the 7<sup>th</sup> 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>

<sup>16</sup> Article 9 of the Law on Strike; See the 7<sup>th</sup> 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>

<sup>17</sup> *Idem*

<sup>18</sup> Compilation of decisions of the Committee on Freedom of Association (ILO CFA), 6<sup>th</sup> 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

<sup>19</sup> Article 10 (1) of the Law on Strike

<sup>20</sup> Article 10 (2) of the Law on Strike

<sup>21</sup> Article 10 (3) and (4) of the Law on Strike

<sup>22</sup> Article 10 (5) of the Law on Strike

<sup>23</sup> Article 10 (6) of the Law on Strike; See the 7<sup>th</sup> 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>

<sup>24</sup> Article 12 of the Law on Strike

<sup>25</sup> Article 13 of the Law on Strike

<sup>26</sup> The rules of conciliation procedure are laid down in Articles 18-29 of the Law on Amicable Resolution of Labour Disputes, see the 7<sup>th</sup> National Report on the implementation of the European Social Charter submitted by the Government of Serbia,

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17 April 2018, p. 50, available at: <https://rm.coe.int/7th-report-on-the-implementation-of-the-european-social-charter-in-ser/16807bb068>

<sup>27</sup> Article 18 (3) of the Law on Strike

<sup>28</sup> Article 3 of the Law on Strike

<sup>29</sup> Article 4 of the Law on Strike

<sup>30</sup> Article 5 (1) and (2) of the Law on Strike

<sup>31</sup> 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>

<sup>32</sup> Article 11 of the Law on Strike

<sup>33</sup> Article 6 of the Law on Strike

<sup>34</sup> Article 12 of the Law on Strike

<sup>35</sup> Article 7 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>36</sup> Article 7 of the Law on Strike

<sup>37</sup> Article 10 of the Law on Strike

<sup>38</sup> Article 1 of the Law on Strike

<sup>39</sup> Article 14 (1) of the Law on Strike

<sup>40</sup> See the 7<sup>th</sup> 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>

<sup>41</sup> See ITUC Survey of violations of trade union rights - Serbia, available at <https://survey.ituc-csi.org/Serbia.html?lang=en#tabs-2>

<sup>42</sup> Article 18 (3) of the Law on Strike

<sup>43</sup> Article 15 of the Law on Strike, see the 7<sup>th</sup> 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>

<sup>44</sup> See the 7<sup>th</sup> 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>

<sup>45</sup> 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).

<sup>46</sup> Article 18 (2) of the Law on Strike

<sup>47</sup> Article 18 (1) of the Law on Strike

<sup>48</sup> See Direct Request (CEACR) adopted 2015, published 105<sup>th</sup> ILC session (2016), 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:3254756,102839,Serbia,2015](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:3254756,102839,Serbia,2015)

<sup>49</sup> 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:::>, consulted on 6 November 2018

<sup>50</sup> Observation (CEACR) adopted 2015, published 105<sup>th</sup> ILC session (2016), 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:3254756,102839,Serbia,2015](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:3254756,102839,Serbia,2015)

<sup>51</sup> Direct Request (CEACR) adopted 2015, published 105<sup>th</sup> ILC session (2016), 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:3254756,102839,Serbia,2015](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:3254756,102839,Serbia,2015)

<sup>52</sup> ECSR, Conclusions 2014 on Article 6§4, in respect of Serbia available at: [https://hudoc.esc.coe.int/eng#{"ESCArticle":\["06-04-000"\],"ESCDcLanguage":\["ENG"\],"ESCDcType":\["Conclusion"\],"ESCStateParty":\["SRB"\],"ESCDcIdentifier":\["2014/def/SRB/6/4/EN"\]}](https://hudoc.esc.coe.int/eng#{)