

The Law on Strike

The Law was published in the "Official Gazette of Montenegro", No. 11/2015 dated March 12, 2015 and entered into force on March 20, 2015

I. GENERAL PROVISIONS

Subject

Article 1

This Law regulates the conditions and ways of organizing the strike and the rights, obligations and responsibilities of employees and employers regarding the strike.

Definition

Article 2

The strike is a disruption of work organized by employees in order to protect their professional, economic and social interests arising on the basis of work.

The work disruption is an organized and continuous refusal of employees to carry out their tasks.

Voluntariness

Article 3

Employees are free to decide on their participation in the strike.

An employee should not be prevented, or exposed to threats or coercion to participate or not participate in the strike.

Peaceful Resolution of a Dispute

Article 4

The strike committee and the employer shall, from the date of announcement of a strike and during the strike, try to peacefully resolve the dispute or to initiate the procedure for the amicable settlement of the dispute, in accordance with the separate law.

Protection of Property

Article 5

The strike shall be organized in a way that does not endanger the property and assets of the employer.

Health and Safety

Article 6

The strike shall be organized in a way that does not endanger the safety and health of people.

Illegal Strike

Article 7

The work disruption not organized in accordance with the provisions of this Law shall be considered an illegal strike.

The use of gender-sensitive language

Article 8

Terms used in this Law for physical entities in the masculine gender include the same terms in feminine gender.

The Strike by the Level of Organization

Article 9

According to the level at which it is organized, a strike may be:

- 1) The strike at the employer;
- 2) Branch strike, which is organized in a particular sector, group, subgroup, or activity;
- 3) The general strike, which is organized for the territory of the state.

The Strike by Way of Organizing

Article 10

A strike may be organized as:

- 1) Strike of warning, which shall be a temporary disruption of work, but can last no longer than one hour;
- 2) Rotating Strike, which shall be organized in a way that only part of the staff disrupts the work during a certain period so that another group of employees comes in their place;
- 3) Selective Strike, which shall be organized in certain organizational units or business units of the employer;
- 4) Solidarity Strike, which shall be organized in support of employees or unions that have already been on strike for the same employer, in the same branch, group, subgroup or activity or at the state level, and can last not longer than one day.

II. STRIKE ORGANIZING

The Strike Committee

Article 11

The strike committee consists of persons who organize, implement and ensure the legitimacy of the strike.

Announcement of Strike

Article 12

The strike committee shall be obliged to announce a strike by submitting a decision on going on strike to the employer, no later than five days prior to a day set for commencing the strike, or 24 hours prior to commencing the strike of warning, unless another deadline is determined by this Law.

The decision on going on strike of employees in a branch or general strike shall be submitted to a competent representative association of employers, the founder, and competent state body for the field of strike initiating, not later than ten days preceding the date of strike initiating.

The decision to go on strike in the activities referred to in Art. 18, 19 and 20 of this Law shall be submitted to the employer, founder, competent government authority, or the relevant local authority, not later than ten days before the date set for the start of the strike.

Making a Decision on Strike

Article 13

The decision to go on strike includes: type of strike; the requests of the strikers; time of commencing the strike; location of the strike and manner to run the strike; the composition of the strike committee, which represents interests of employees, and, on their behalf, runs the strike, and a list of employees who are on strike.

An employee who, during the strike, decides that, for whatever reason quit the strike, or join the strike, he must notify the strike committee in writing thereof.

The strike committee shall within 24 hours submit eventual changes to the list of employees who are on strike.

The decision to go on strike within the employer shall be made by a competent body of the authorized Trade Union organization or more than half of employees of the employer or its division.

The decision to go on strike within a branch, or the decision to go on general strike, shall be made by a competent body of the authorized trade union organized on a branch level, or a state level.

The Exclusion from the Work Process (Lock out)

Article 14

The employer may exclude from the process of working the employees who do not participate in strike (lock out) if at least 30 days have passed from the initiation of the strike.

The employees referred to in paragraph 1 of this Article can not be the persons who are guaranteed a special protection, in accordance with the Law.

Number of employees excluded from the process of working can not exceed one third of employees participating in the strike.

Lock out shall last no longer than the termination of the strike.

Employees locked out are not entitled to a salary, and the employer is obliged to pay contributions to social insurance as if they were at work, in accordance with the regulations on social insurance.

The lock out can not be organized in activities referred to in Art. 18, 19 and 20 of this Law.

Location and manner of conducting the strike

Article 15

The strike is manifested as a peaceful gathering of employees at the workplace or within the business premises of the employer.

A strike may be manifested by the staff not attending the work.

Picket Duty

Article 16

Employees, who go on a strike with the employer, may, from the rank of employees and by a decision of the representative trade union's competent body with the employer or majority of employees, establish strikers' picket duty in locations in front of the entrance of the area of employer's business premises, for the purpose of informing the employees and the public about the occurred dispute and justification of strikers' requests.

A decision on establishing strikers' picket duty shall be submitted to the employer within the deadline for submitting the decision on going on strike, as its integral part or as a separate act during the strike.

The decision referred to in paragraph 2 of this Article must be explained and contain the number and names of employees - members of the strikers' picket duty.

Strikers' picket duty cannot: use physical coercion, set barricades or block entrance to employees who want to work, threat or insult employees, and prevent the employer from carrying out its activity.

Obligations of a Strike Committee and Strike Participants

Article 17

A strike committee and employees who participate in a strike cannot prevent employees, who do not participate in the strike, from working.

A strike committee and employees who participate in a strike cannot prevent the employer from using the assets and disposition of the assets that it uses for performing the activity.

The strike committee and employees who participate in the strike can not use the working assets of the employer during the strike.

By using the working assets of the employer in terms of paragraph 3 of this article does not imply the use of means of communication (bulletin board, business phone, personal computer, Internet access and e-mail).

III. RESTRICTIONS ON THE RIGHT TO STRIKE

Organizing a Strike in Specific Conditions

Article 18

In order to protect the public interest, the employees of the Army of Montenegro, police, state bodies and public service can organize a strike in a way that will not endanger national security, safety of persons and property, the general interest of the citizens, as well as the functioning of the authorities, in accordance with the law.

The assessment of whether the organization of the strike referred to in paragraph 1 of this Article, endangers national security, security of persons and property, the general interest of citizens and functioning of government authorities shall be given by the state authority responsible for national security, within 24 hours from the announcement of the strike.

If the state authority in charge of national security assessed that the strike will endanger national security, security of persons and property, the general interest of the citizens and the functioning of government authorities, the strike can not be organized in the activities referred to in paragraph 2 of this Article.

Based on the assessment referred to in paragraph 2 of this Article, the body for the needs of which the assessment has been made shall pass the relevant document.

Strikes in Activities of Public Interest

Article 19

Activities of public interest are those stipulated by law and those the interruption of which due to the nature of work could endanger the life, health or general interest of citizens, i.e.:

- 1) production and distribution of basic food products (flour, milk, oil, sugar and food for children);
- 2) the production, transmission, distribution and supply of electricity;
- 3) passenger transport (road, rail and air transport);
- 4) the postal services (universal postal service);
- 5) Public Electronic Communications, in accordance with the law;
- 6) informative programs of public broadcasting service;
- 7) public utilities/activities (water production and supply, garbage collection, production, distribution and supply of heat, funeral services and other);
- 8) production, distribution and supply of oil, coal and gas;

- 9) fire protection;
- 10) health and veterinary care;
- 11) pre-school and primary education;
- 12) social and child protection;
- 13) the fulfillment of the obligations under the ratified international treaties.

The strike at the secondary and higher education

Article 20

The activity of public interest, in the sense of Article 19 of this law, is the provision of services in the field of secondary and high education, if the strike, because of length of its duration or its scope, could reach such proportions that it jeopardizes the implementation of the education program for the current school year.

A decision that the implementation of the education program for the current school year is endangered due to the duration and scope of a strike in the activities referred to in paragraph 1 of this Article, at the request of the state administration responsible for education, shall be adopted by the arbitral Council for determination of minimum services (hereinafter: the Arbitral Council), established by the Director of the Agency for Peaceful Resolution of Labor Disputes (hereinafter referred to as the Agency), within five days from the date of application submitting.

The Arbitral Council shall be established in the manner prescribed in Article 23 para. 4 and 5 of this Law.

The Arbitral Council shall issue a decision referred to in paragraph 2 of this Article within ten days of its establishment.

Employees of the activities referred to in paragraph 1 of this Article are obliged to adhere to the minimum working process after the decision adoption by the Arbitral Council.

Special technological process

Article 21

The employers with special technological processes (chemical industry, ferrous and non-ferrous metallurgy) where the work disruption, due to its nature, could result in a damage of working assets, or cause an immediate jeopardy to life and health of employees and create unfavorable conditions for the working and living environment, shall be provided with the technological minimum of work.

The employers referred to in paragraph 1 of this Article shall be determined by the state authority in charge of the economics activities.

Minimum Work Process

Article 22

Employees who perform the activity referred to in Articles 18, 19, 20 and 21 of this Law may commence the strike, if the minimum work process is previously enabled so as to provide the security of people and property or is an indispensable prerequisite for citizens' lives and work, or it protects the national security as well as the operating of the government authorities.

If the strike in activities referred to in Art. 18, 19, 20 and 21 of this Law is organized in the part of the employer, the duty of providing the minimum work process shall be applied only to that part.

Notwithstanding paragraph 1 of this Article, the employees performing the activities referred to in Article 20 of this Law are obliged to adhere to the minimum working process, if the strike, because of its length and extent could take on such proportions so as to jeopardize the implementation of education program for the current school year.

Act on Minimum Work Process

Article 23

Act on minimum work process for the activities referred to in Art. 18, 19, 20 and 21 of this Law shall be determined by mutual agreement reached between the competent government authority, the representative association of employers and the representative trade union, within 90 days from the date of entry into force of this law.

If the minimum work process is not determined within the period stipulated by the Paragraph 1 of this Article, the competent government authority shall be required to notify the Agency thereof without delay.

Within 15 days from the received notification referred to in Paragraph 2 of this Article, Director of the Agency shall form the Arbitral Council.

The Arbitral Council shall be composed of one representative of the disputing parties and one member from among the experts - experts in the field for which the minimum work process is being determined.

Disputing parties shall appoint their representatives for the members of the Arbitral Council, and a member from among the experts shall be appointed by the

competent government authority in the area for which the minimum of work shall be determined.

Decision on establishment of the Arbitral Council shall be issued by the Director of the Agency, at the proposal of the Management Board of the Agency.

The manner of operations performance and decision making of the Arbitral Council shall be stipulate by an act of the Agency.

The Arbitral Council shall decide on the minimum work process, within 30 days of the day of its formation.

The work of employees during the provision of minimum work process

Article 24

Employees who are required to work during the strike in order to ensure minimum work process shall be determined by the management body of the employer, upon the proposal of the strike committee.

The strike committee has the right to propose the rotation of employees who are required to work during a strike, during certain time intervals.

In the event that the strike committee does not submit a proposal in Par. 1 and 2 of this Article within 24 hours before the start of the strike, the management body of the employer has the right to appoint the employees who are required to work for the provision of minimum work process.

Cooperation during the provision of minimum work process

Article 25

A strike committee shall be obliged to cooperate with the employer during a strike, for the purpose of ensuring the minimum work process.

Dispute in Activities of Public Interest

Article 26

The activities referred to in Art. 18, 19 and 20 of this law, disputing parties shall, within 24 hours of announcing the strike, submit a joint proposal for the peaceful resolution of a labor dispute before the Agency.

If the disputing parties do not act pursuant to Paragraph 1 of this Article, the competent government authority which received a notice of decision to go on strike is obliged to inform the Agency within 48 hours of delivery of such decision to go on strike.

In the case referred to in Paragraph 2 of this Article, the Agency's Director shall initiate the procedure ex officio and determine a mediator from the Directory of mediators and arbitrators.

Conciliation proceeding shall be conducted in accordance with the law governing the peaceful resolution of labor disputes.

Protection of Employees' Right

Article 27

Organization of a strike or participation in a strike under the conditions set forth by this Law shall not represent a violation of work duty, cannot be a ground for initiation of the procedure for determining disciplinary and material liability of an employee, for removing the employee from work and cannot have, as a consequence, termination of employee's employment.

An employee who participates in a strike shall not be entitled to a wage.

An employee who is obliged to work during a strike, for the purpose of ensuring minimum work process, under Article 22 of this Law, shall be entitled to wage in proportion to the time spent at work.

The employee referred to in paragraphs 2 and 3 of this Article shall be entitled to social insurance, in accordance with regulations on social insurance.

Strike organizers or participants in a strike not organized pursuant to this Law shall not enjoy the protection determined in Paragraph 1 of this Article.

Obligations of the Employer

Article 28

During a strike organized under the conditions set forth by this Law, an employer cannot employ new persons who would replace the strike participants, unless the following is jeopardized: ensuring the minimum work process that provides for security of property and persons, as well as fulfillment of obligations arising from the ratified international treaties.

An employer can neither prevent the employees from organizing and participating in a strike, nor use threats and coercion for ending a strike.

An employer can not provide the employees, who do not take part in a strike, on the basis of non-participation in a strike, with bigger earnings or other more favorable work conditions.

Termination of Employment

Article 29

Member of a strike committee who organized the strike contrary to the provisions of this Law may be terminated the employment by the employer pursuant to a final decision of the competent court stating that the strike is illegal.

A strike committee member or a strike participant who organizes and runs a strike in the manner that jeopardizes safety of persons and property or peoples' health, or prevents the employees, who do not participate in strike from working, i.e. makes the continuation of work impossible, upon termination of strike, or prevents the employer from using the assets and disposition of assets that are used by the employer for performing the activity, shall violate the work duty that the measure of termination of employment is imposed on.

The employee in the activities referred to in Articles 18, 19, 20 and 21 of this Law, who refuses to execute employer's order issued for the purpose of ensuring the minimum work process, shall commit a violation of work duty that the measure of termination of employment may be imposed on.

Termination of Strike

Article 30

A strike shall terminate by mutual agreement of disputing parties or pursuant to a decision made by the competent body which made a decision on going on strike.

For each new strike, participants in the strike shall be obliged to submit a new decision on strike.

Determining the Illegality of Strike

Article 31

The procedure for determining the illegality of a strike or unlawful exclusion from work may be initiated by employer or association of employers, representative trade union or a strike committee.

The request for determination of illegality of a strike or unlawful exclusion from work shall be decided upon by a competent court, within five days from the date of request submission.

Inspection Supervision

Article 32

The state authority in charge of inspection activities, through the labor inspection, shall perform inspection supervision over the application of this Law.

In performing inspection supervision, regulations on inspection supervision shall be applied, unless otherwise determined by provisions of this Law.

Obligation of Data Provision

Article 33

An employer, strike committee, trade union representative and employee shall be obliged to enable a labor inspector, or administrative inspector, to perform supervision, access to documentation and undisturbed work, and to provide him with data and documentation necessary for performance of inspection supervision.

Minutes on Inspection Performed

Article 34

A labor inspector shall prepare the minutes on the performed inspection supervision and taken activities comprising finding and, if necessary, measures ordered.

The Minutes referred to in Paragraph 1 of this Article shall be delivered to the employer and strike committee.

IV. PENALTY PROVISIONS

Article 35

A pecuniary fine in the amount ranging from EUR 2.500 to EUR 10.000 shall be imposed for an offence on the employer with the status of a legal entity if:

1) It excludes from the process of work the employees who do not participate in the strike contrary to Article 14 of this Law

2) It initiates the procedure for determining disciplinary and material liability of the employee, removes an employee from work or terminates employment of the employee, due to organization or participation in a strike organized in accordance with law (Article 27, paragraph 1);

3) If, during the strike organized under the conditions set forth by this Law, it employs new persons who would replace strike participants, unless otherwise envisaged by this Law (Article 28, Paragraph 1);

4) It prevents employees from organizing and participating in a strike, or applies threats and coercive measures to terminate a strike (Article 28 Paragraph 2);

5) If, during the strike, it provides higher wage or other more favorable work conditions for employees who do not participate in a strike (Article 28, paragraph 3);

6) It does not enable a labor inspector, or administrative inspector, to conduct supervision, and it does not provide him with the access to data and documentation necessary to perform inspection supervision (Article 33).

A pecuniary fine in the amount from EUR 500 to EUR 1.000 shall be imposed for the offence referred to in paragraph 1 of this Article also on a responsible person of the legal entity.

A pecuniary fine in the amount from EUR 500 to EUR 6.000 shall be imposed for the offence referred to in paragraph 1 of this Article also on an entrepreneur.

Article 36

A pecuniary fine in the amount ranging from EUR 500 to EUR 10.000 shall be imposed for an offence on the trade union, if:

- 1) The decision to go on strike does not include the elements stipulated by law: the requests of the strikers; time of commencing the strike; location of the strike and manner to run the strike; the composition of the strike committee, which represents interests of employees, and, on their behalf, runs the strike, and a list of employees who are on strike (Article 13 paragraph 1 of this law).
- 2) The decision to go on strike within the employer is not made by a competent body of the authorized Trade Union organization or more than half of employees of the employer or its division (Article 13 Paragraph 3 of this Law).

A pecuniary fine in the amount from EUR 500 to EUR 1.000 shall be imposed for the offence referred to in paragraph 1 of this Article also on a responsible person of the trade union.

Article 37

A pecuniary fine in the amount ranging from EUR 500 to EUR 1.000 shall be imposed on an employee, strike committee member, picket duty member, trade

union member and trade union representative, depending on the committed violation, if he:

1) does not announce the strike and does not deliver a decision on going on strike within the timeframe and in the manner stipulated by Article 12 of this Law;

2) The decision to go on strike does not include the elements stipulated by law: the requests of the strikers; time of commencing the strike; location of the strike and manner to run the strike; the composition of the strike committee, which represents interests of employees, and, on their behalf, runs the strike, and a list of employees who are on strike (Article 13 paragraph 1 of this law);

3) does not issue a decision to go on strike, by a competent body of the authorized Trade Union organization or more than half of employees of the employer or its division (Article 13 Paragraph 3 of this Law);

4) the strike is not manifested as a peaceful gathering of employees in the work area of the employer or within the business premises of the employer, or by staff not attending at work (Article 15);

5) uses physical coercion, sets barricades or blocks entrance to work to employees who want to work, or prevents the employer from performing its activity (Article 16, paragraph 4);

6) obstructs or impedes employees who do not participate in a strike from working (Article 17, paragraph 1);

7) prevents or interferes with the employer to use the working assets and has on disposal the assets to carry out the activity (Article 17 paragraph 2);

8) use the employer's working assets during a strike (Article 17 paragraph 3);

9) the employees performing the activities referred to in Article 20, paragraph 1 of this Law do not adhere to the minimum work process, after the issuance of decision of the Arbitral Council (Article 20 paragraph 5);

10) employees who perform activities referred to in Art. 18, 19, 20 and 21 of this Law initiate a strike, without prior determined minimum of work process (Article 22 paragraph 1);

11) during a strike, refuses to cooperate with the employer for the purpose of ensuring minimum work process (Article 25);

12) does not enable a labor inspector, or administrative inspector, to conduct supervision, and does not provide him with the access to data and documentation necessary for carrying out inspection supervision (Article 33).

V. TRANSITIONAL AND FINAL PROVISIONS

The deadline for the Adoption of Acts

Article 38

The act referred to in Article 21, Paragraph 2 of this Law shall be adopted within 60 days from the effective day of this Law.

The Agency shall adopt the act referred to in Article 21, Paragraph 2 of this Law within 60 days from the effective day of this Law.

Application of Previous Regulations

Article 39

Until the adoption of the acts on the minimum work process referred to in Article 23 of this Law, there shall be applied the regulations that were in force before the entry into force of this law.

Repeal of Regulations

Article 40

On the effective date of this Law, the Law on Strikes ("Official Gazette of the Republic of Montenegro, No. 43/03 and 71/05 and "Official Gazette of Montenegro", No. 49/08), Article 175 of the Law on Amendments to the Law prescribing fines for offences ("Official Gazette of Montenegro, No. 40/11) and the provision of the Article 31b of the Law on Peaceful Resolution of Labor Disputes ("Official Gazette of Montenegro", No. 16/07 and 53/11).

Entry into force

Article 41

This Law comes into force eight days after its publication in the "Official Gazette of Montenegro".

Number: 19-3/13-1/21

EPA 189 XXV

Podgorica, February 26, 2015

25th Assembly of the Parliament of Montenegro

The President
Ranko Krivokapić, pers. sign.