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THE RIGHT TO STRIKE FOR POLICE OFFICERS

Abstract:

This paper addresses the complex and controversial issue of the right to strike for police officers in contemporary legal systems. It focuses on the legal restrictions arising from the specific nature of the police profession and its importance in maintaining public order, security, and the functioning of the state. The authors analyze the legal frameworks governing this matter in the Republic of Serbia, as well as in selected comparative legal systems, with reference to international standards and recommendations, primarily those issued by the International Labour Organization (ILO), the Council of Europe, and the European Court of Human Rights. The paper explores arguments for and against recognizing the right to strike for police officers, including security-related, ethical, professional, and political considerations. Special attention is given to possible alternative mechanisms for exercising labor and social rights of police officers, such as collective bargaining, arbitration, and institutional protection through trade unions. The aim of the paper is to provide a balanced and well-argued contribution to the professional and academic debate on the limits and possibilities of exercising the right to strike in the security sector, with emphasis on the need to reform and improve the legislative framework in accordance with democratic standards and the principles of the rule of law.

Key words: *strike, police officers, labor law, union, negotiation, legislation*

INTRODUCTION

The right to association and trade union organization represents a fundamental pillar of the protection of employees' labor and social rights. Its importance is affirmed by numerous international and national legal instruments, while trade unions play a key role in improving the professional and economic position of workers.¹ Strikes are among the most significant tools of trade union action, commonly employed to pursue labor-related demands.

1 Petrović, A. (2009). *Međunarodni standardi rada*, Niš: Pravni fakultet, p. 96.

However, strikes also carry potential risks for the uninterrupted functioning of public services and may produce broader societal consequences. Accordingly, although the right to strike is recognized as a fundamental human and labor right, it is not absolute and may be subject to restrictions when public safety, health, or essential societal interests are at risk. In this context, the right to strike for police officers becomes a particularly sensitive issue. Given the specific role of the police in maintaining public order and upholding the rule of law, many states impose full or partial prohibitions on the exercise of this right by police personnel. International standards, such as those set forth in the conventions of the International Labour Organization and the European Social Charter, permit such restrictions but only under strictly defined conditions and in accordance with the principles of a democratic society.²

In the Republic of Serbia, the Constitution³ guarantees the right to strike to all citizens. The legal status of police employees is primarily governed by the Law on Police,⁴ with supplementary application of the Law on Civil Servants⁵ and the Labour Law.⁶ This establishes a normative hierarchy wherein the Law on Police takes precedence, followed by the Law on Civil Servants for issues not specifically regulated, and ultimately by the Labour Law as the general framework for employment relations.⁷

The paper uses the comparative method, through the presentation and analysis of legal solutions in selected legal systems. Normative analysis of valid legal and sub-legal regulations of the Republic of Serbia is also used.

THE RIGHT TO STRIKE OF POLICE OFFICERS UNDER INTERNATIONAL STANDARDS

Although the right to strike is recognized in modern international law as a fundamental right of employees, it does not enjoy absolute protection. International standards clearly indicate that this right may be restricted when its exercise could seriously endanger other fundamental values of a democratic order, such as public security, the protection of life and health, or the uninterrupted operation of essential public services.⁸ For this reason, universal and regional international legal instruments do not treat the right to strike uniformly across all categories of workers. A particular distinction is made between private sector employees and those employed in public administration and services of general interest. This distinction is especially pronounced in the context of the right to strike within the security sector, including the police.⁹

2 Vučetić, D., Barun, I. (2012). Pravo na štrajk zaposlenih u jedinicama lokalne samouprave, *Zbornik radova Pravnog fakulteta u Nišu*, 62, p. 360-361

3 Constitution of the Republic of Serbia, *Official Gazette of the Republic of Serbia*, nos. 98/2006 and 115/2021

4 Law on Police, *Official Gazette of the Republic of Serbia*, nos. 6/2016, 24/2018, and 87/2018

5 Law on Civil Servants, *Official Gazette of the Republic of Serbia*, nos. 79/2005, 81/2005 (corr.), 83/2005 (corr.), 64/2007, 67/2007 (corr.), 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020, 142/2022, 13/2025 (CC decision), and 19/2025.

6 Labour Law, *Official Gazette of the Republic of Serbia*, nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 (CC decision), 113/2017, and 95/2018 (authentic interpretation).

7 Vukašinović Radojičić, Z. (2006). Pravni položaj policijskih službenika i profesionalizacija policije, *NBP. Nauka, bezbednost, policija*, 11(3), p. 103-104

8 Petrović, A. *op. cit.*, p. 111

9 more in: Barun, I. (2011). MOR i sloboda sindikalnog udruživanja; U: *Tematski zbornik radova*

Core conventions of the International Labour Organization (ILO), particularly Convention No. 87 on Freedom of Association and Protection of the Right to Organize and Convention No. 98 on the Right to Organize and Collective Bargaining, explicitly delegate to member states the discretion to determine the extent to which these rights will apply to members of the police and armed forces. This delegation allows for the establishment of special legal regimes for employees in the security sector, including the possibility of fully excluding the right to strike. In response to the need for further clarification of the legal status of public servants, including police officers, the ILO adopted Convention No. 151 on Labour Relations in the Public Service in 1978. While this convention aims to extend labor rights, including collective bargaining, to public administration employees, it nonetheless permits states to determine the degree to which these guarantees will apply to high-ranking officials, those in confidential posts, and members of the police and armed forces. This approach reflects the recognized specificity of police functions under international law. A similar rationale is found in Article 31 of the European Social Charter, which allows for the restriction of the right to strike when necessary in a democratic society for the protection of the rights and freedoms of others, the public interest, national security, public health, or morals. This provision is particularly relevant to those employed in institutions that exercise state authority or whose activities directly affect public safety—such as the police. Furthermore, ILO instruments differentiate between public servants who exercise public authority and those engaged in technical or auxiliary functions. While the former—such as police officers—fall under national regulatory discretion regarding the right to strike and freedom of association, the latter category benefits from broader international legal protections, nearly equivalent to those granted to workers in the private sector.¹⁰

LEGAL FRAMEWORK GOVERNING THE RIGHT TO STRIKE IN THE REPUBLIC OF SERBIA

Throughout the historical development of state systems and labor relations, trade union organization has undergone numerous transformations reflecting broader social, political, and economic changes. From its initial forms during the early phases of industrialization to the modern era, workers have sought to unite and act collectively to defend their economic and social rights. In this context, collective labor law stands out as a fundamental pillar of the legal system regulating relations between employees and employers at the group level rather than individually.¹¹

The primary aim of collective labor law is to promote and protect the shared interests of employees through mechanisms such as collective bargaining, the conclusion of collective agreements, social dialogue, and, as a last resort, the right to strike. The strike, as the most powerful tool of labor struggle, serves as an expression of workers' ultimate dissatisfaction and a means of exerting pressure when peaceful resolution of labor disputes has failed.

However, the right to strike is not universally applicable to all categories of workers to the same extent. A particular challenge in regulating this right lies in its application

Pravnog fakulteta u Nišu „Zaštita ljudskih i manjinskih prava u evropskom pravnom prostoru“; Knjiga prva, p. 629-642.

¹⁰ Vučetić, D., Barun, I. (2012). *op. cit.*, p. 362

¹¹ more in: Galić, M. B., Raonić, G. R. (2024). Razvoj sindikalnog organizovanja kao istorijske tekovine i ustavom zagaranovanog prava. *Strani pravni život - Institut za uporedno pravo*, 2, p. 239-252

to employees within the security sector, especially police officers. In accordance with constitutional and legal provisions, the Republic of Serbia restricts the exercise of this right for members of the Ministry of Internal Affairs.¹²

The right to strike is guaranteed to all citizens of the Republic of Serbia by Article 61 of the Constitution, which stipulates that employees have the right to strike, in accordance with the law and the collective agreement. Also, the same article stipulates that the right to strike can be limited only by law, according to the nature or type of activity.¹³ The Law on Strike of the Republic of Serbia, regulates the conditions and procedures for organizing strikes as a means to protect the professional, economic, and social rights of employees. According to Article 1, the law governs how workers can collectively stop work to pursue their demands.

Article 2 emphasizes that employees have the freedom to decide whether to participate in a strike, and employers are prohibited from obstructing strike organization or participation, or from coercing workers. Strikes may be organized at the enterprise, sectoral, or regional level, including warning strikes (Article 3). Articles 4 and 5 require that the decision to strike be made by union bodies or a majority of employees, and that employers and relevant authorities be notified within prescribed deadlines. The law also sets limitations to protect public safety and ensure that non-striking employees can continue working (Article 9). Hiring replacement workers is prohibited except in urgent cases. Article 18 provides for disciplinary measures against those who organize strikes endangering safety or others' rights.

Labor inspectors are authorized to postpone enforcement of disciplinary measures against striking workers pending final court decisions (Article 22). Non-compliance with procedural requirements may result in fines for trade unions (Article 24). Overall, the legal framework strives to balance workers' right to strike with the need to maintain public order and the functioning of essential societal services.¹⁴

Police officers constitute a unique category of public civil servants due to the critical nature of their duties. As guardians of public interest, they perform indispensable roles such as maintaining public order and safety, enforcing the rule of law, protecting fundamental human rights and freedoms, preventing and investigating crime, and providing essential assistance to citizens, state bodies, and non-governmental organizations. The efficiency and professionalism of police work significantly depend on the officers' expertise, skills, and commitment. Consequently, the development of a professional, impartial, and politically neutral police force hinges on well-trained and motivated personnel.¹⁵ Given this distinctive role, the legal framework governing the rights and obligations of police officers, including their right to strike, differs significantly from that applicable to other employees.

12 Škorić, S., Čičovački, T. (2024). Pravo na štrajk kao kolektivno pravo zaposlenih, *XXI međunarodni naučni skup „Pravnički dani - Prof. dr Slavko Carić“, Odgovori pravne nauke na izazove savremenog društva*, p. 71-81

13 Constitution of the Republic of Serbia, *Official Gazette of the Republic of Serbia*, nos. 98/2006 and 115/2021.

14 Law on Strike, *Official Gazette of the Republic of Serbia*, Nos. 101/2005 and 103/2012.

15 Vukašinović Radojičić, Z. *op. cit.*, p. 103-104

LEGAL FRAMEWORK GOVERNING THE RIGHT TO STRIKE OF POLICE OFFICERS IN THE REPUBLIC OF SERBIA

The essential public safety functions entrusted to the police justify certain restrictions on their ability to engage in collective industrial action, such as strikes, to ensure that critical public services are not disrupted. Therefore, while police officers retain fundamental labor rights, including the right to organize, their right to strike is often limited or regulated by specific legal provisions reflecting the need to balance individual labor rights with broader societal interests. The right to strike for police officers is carefully circumscribed to maintain the delicate equilibrium between upholding democratic freedoms and safeguarding public order and safety.

The Law on Police serves as the principal legal instrument regulating the status of police officers. It explicitly forbids them from striking due to the unique nature of policing, its critical role in maintaining constitutional order, public safety, and the protection of citizens. Police personnel employed by the Ministry are entitled to strike in accordance with the law and collective agreement, and they may freely decide whether to participate. However, they are explicitly prohibited from striking under the following circumstances: during a state of war, emergency, crisis, or heightened risk; in the event of violent threats to Serbia's constitutional order; when a natural disaster or imminent danger thereof is declared in two or more police districts or across the nation; in case of other disasters or accidents that disrupt normal life and threaten public health or property; if their position precludes maintaining a minimum level of operations.¹⁶

Positions incapable of preserving minimum operations are designated by the Minister. Personnel—except those covered by point 2—may initiate a strike only if minimum operational levels, essential for public safety or vital services, are ensured. At least ten days prior to strike commencement, unit leaders must designate the employees responsible for maintaining at least 60% operational capacity. A “warning strike” must be announced at least five days in advance, while a formal strike notice is required not less than fifteen days before the planned start. The strike notice must include the strike committee's plan for maintaining minimum service levels, employee demands, the strike's start time, location, and representatives' details. During the strike, ministry officials and the strike committee are obliged to engage in negotiations aimed at peaceful dispute resolution, based on mutual trust and respect for economic and social interests. Strikes that involve public gatherings must comply with laws regulating public assemblies. Additionally, during a strike, participating police officers are not permitted to carry weapons or other coercive tools.¹⁷

In the legal system of the Republic of Serbia, subsidiary application is granted to the Law on Civil Servants and the Labour Law. When the Law on Police does not contain specific provisions governing certain aspects of employment relations, legal norms established by the Law on Civil Servants come into effect. This law also recognizes the possibility of differentiating rights and duties among employees in various public bodies, depending on the unique character of their functions and the nature of their official responsibilities.

In cases where neither the Law on Police nor the Law on Civil Servants provides explicit regulation, general labor norms contained in the Labour Law are applied. The Labour

16 Law on Police, *Official Gazette of the Republic of Serbia*, nos. 6/2016, 24/2018, and 87/2018.

17 Law on Police, *Official Gazette of the Republic of Serbia*, nos. 6/2016, 24/2018, and 87/2018.

Law, as a general legal act governing labor relations, establishes foundational principles for employment, thus serving as a legal safety net in the absence of more specialized regulation. Within the framework of collective labor law, police officers in Republic Serbia are entitled to freedom of association and collective bargaining, which allows them to organize into unions and negotiate working conditions. However, they are explicitly denied the right to strike. This restriction is based on the rationale that any interruption in the functioning of the Ministry of Internal Affairs could result in severe disruptions to public administration and could pose a threat to public safety and order.

Under Serbian law, the Labour Law provides comprehensive protections and guidelines for trade union activity. Article 206 guarantees workers the right to organize and operate within trade unions freely, without requiring prior approval. This freedom is formalized once a union registers in the official trade union registry, ensuring legal recognition and protection for its activities. While Article 215 primarily addresses general requirements for union activity, it leads directly into the definitions of union representativeness found in Article 218. They protect the right to organize and form unions (Art. 206), define legal recognition criteria, and ensure unions truly represent their members (Art. 218).¹⁸

While police officers in Republic Serbia cannot strike under the Law on Police, they remain fully entitled to unionize and engage in collective bargaining, in line with the Labour Law. This dual structure safeguards democratic labor freedoms while maintaining essential public service continuity and security. According to Article 4, Paragraph 2 of the Serbian Law on Civil Servants, the Special Collective Agreement is negotiated between the Government and representative trade unions established within the territory of the Republic of Serbia.¹⁹ For police officers, this provision is implemented through the *Special Collective Agreement for Police Officers*, which has been in effect since 2021.

SPECIAL COLLECTIVE AGREEMENT FOR POLICE OFFICERS IN REPUBLIC OF SERBIA

The Special Collective Agreement for Police Officers governs the working conditions, rights, and duties of police personnel in Republic Serbia. Its provisions are structured to address the unique responsibilities of policing, while ensuring formal mechanisms of dialogue, agreement, and dispute resolution. The Special Collective Agreement for Police Officers is a highly structured, legally binding framework that:

- Enables regular dialogue and mutual oversight (through commissions),
- Permits tailored, case-specific accords to enhance union-state cooperation,
- Provides formal processes for amending and terminating the agreement,
- Ensures continuity and clarity via transition provisions.²⁰

18 Labour Law, *Official Gazette of the Republic of Serbia*, nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 (CC decision), 113/2017, and 95/2018 (authentic interpretation).

19 Law on Civil Servants, *Official Gazette of the Republic of Serbia*, nos. 79/2005, 81/2005 (corr.), 83/2005 (corr.), 64/2007, 67/2007 (corr.), 116/2008, 104/2009, 99/2014, 94/2017, 95/2018, 157/2020, 142/2022, 13/2025 (CC decision), and 19/2025.

20 *Special Collective Agreement for Police Officers*, *Official Gazette of the Republic of Serbia*, nos. 62/2019,

This agreement represents a sophisticated effort to balance security sector exigencies with progressive labor standards, reflecting both national priorities and compliance with international norms on collective labor rights. The *Special Collective Agreement for Police Officers* stands as a vital legal instrument that defines the framework of employment relations within Republic Serbia's internal security sector. By delineating the rights, obligations, and working conditions specific to police personnel, this agreement reflects the state's recognition of the distinct and demanding nature of police service. It not only establishes mechanisms for collective bargaining and institutional dialogue between the Ministry of Internal Affairs and representative trade unions but also ensures that police officers benefit from structured protections, despite restrictions on their right to strike.

Through its clear procedures for monitoring implementation, revising provisions, and resolving disputes, the agreement reinforces the principles of transparency, accountability, and mutual cooperation in labor relations. Furthermore, its alignment with broader legal and constitutional norms—as well as with international labor standards—demonstrates a balanced approach to upholding public security while respecting the socio-economic rights of those tasked with protecting it. Ultimately, the agreement exemplifies how tailored collective arrangements can coexist with national security imperatives, offering a model of labor governance within sensitive sectors of public administration.

REGULATION ON THE STRIKE OF POLICE OFFICERS

This regulation defines the specific procedures and organizational rules governing police officer strikes. It clarifies when and how strikes may be conducted within the Ministry of Internal Affairs. Regulation regarding the police officers' strike, it determines the following

- Article 2 – Legal Basis - The right to strike is grounded in constitutional and labor laws. However, because of the public security duties of the police, any industrial action must be carefully regulated to prevent disruptions to essential services.
- Article 5 – Strike Committee Formation - A designated strike committee leads the industrial action, representing the striking officers in negotiations and overseeing the implementation of operational safeguards during the strike.
- Article 7 – Operational Requirements - Officers involved in the strike cannot carry firearms or use coercive equipment. They are also prohibited from acting in ways that would compromise the safety of citizens or critical functions of the police.
- Article 8 – Legal Effectiveness - All measures prescribed by this regulation have binding legal force. If officers strike in violation of these rules, they may face disciplinary action or dismissal.²¹

This regulation establishes a structured and cautious approach to any form of industrial action by police officers. While recognizing their theoretical right to strike, it imposes stringent conditions—such as the formation of a strike committee, maintaining public safety, and the prohibition on carrying weapons—that underscore the priority of

62/2020 (Annex I), & 81/2021 (Annex II).

21 Regulation on the Strike of Police Officers, *Official Gazette of the Republic of Serbia*, no. 71/2007.

state security. Violations can lead to serious legal or disciplinary consequences. In effect, this regulation harmonizes the constitutional right to strike with the practical necessity of ensuring uninterrupted public order. This agreement specifically addresses the labor conditions, rights, and obligations of police personnel, tailoring its provisions to accommodate the unique nature of police duties and responsibilities. This specific legal arrangement in Republic of Serbia is aligned with relevant international labor standards, particularly the conventions of the ILO. Notably, ILO conventions permit member states to autonomously regulate the exercise of the right to strike within the security sector, including the police. The purpose of this protection is to realize the right to work as a specific human right that arises in connection with work.²² Thus, the national legislative framework aims to strike a balance between safeguarding the labor rights of public employees and preserving the fundamental interests of the state and society as a whole.

CONCLUSION

The right to strike is a fundamental component of labor rights in democratic societies, yet its application is not absolute—especially when it comes to public officials whose duties are tied to state security and public order. International legal standards, including those set by the ILO, recognize the unique nature of police work and thus permit member states to place reasonable limitations on the right to strike for police officers. This reflects the balance between protecting workers' rights and maintaining public safety and institutional stability. In the context of the Republic of Serbia, the legal framework governing the right to strike is well defined, comprising constitutional provisions, the Labour Law, the Law on Civil Servants, and most importantly, the Law on Police. These legal instruments establish a hierarchical regulatory structure in which police officers are explicitly excluded from the general right to strike due to the essential nature of their functions. Instead, alternative mechanisms such as collective bargaining, internal dialogue, and institutional dispute resolution are promoted as means of safeguarding their socio-economic interests. The Special Collective Agreement for Police Officers, along with the 2007 Regulation on the Strike of Police Officers, further refines the conditions under which strike-related actions may occur, delineating procedural requirements, responsibilities of organizing bodies, and strict limitations during states of emergency or crisis. These provisions ensure that while labor rights are acknowledged, they do not compromise the operational capacity of law enforcement agencies.

Republic of Serbia's approach aligns with international norms by affirming labor rights while preserving public security. It presents a pragmatic model of labor regulation in the security sector, where institutional stability and citizens' safety remain paramount.

22 more in: Vidojević B. (2021). Konvencije Međunarodne organizacije rada i njihova primena u nacionalnim zakonodavstvima, *Pravni stav*, br.1, Regionalno društvo pravnika „Šumadija“, p. 1-24



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PRAVO NA ŠTRAJK POLICIJSKIH SLUŽBENIKA

Apstrakt:

Rad se bavi složenim i kontroverznim pitanjem prava na štrajk policijskih službenika u savremenim pravnim sistemima. U fokusu su pravna ograničenja koja proističu iz specifične prirode policijske profesije i njenog značaja za očuvanje javnog reda, bezbednosti i funkcionisanja države. Autori analiziraju pravne okvire koji regulišu ovo pitanje u Republici Srbiji, ali i u odabranim komparativnim pravnim sistemima, uz osvrt na međunarodne standarde i preporuke, pre svega one koje donosi Međunarodna organizacija rada (MOR), Savet Evrope i Evropski sud za ljudska prava. Rad analizira razloge za i protiv priznavanja prava na štrajk policijskim službenicima, uključujući bezbednosne, etičke, profesionalne i političke dimenzije. Posebna pažnja posvećena je mogućim alternativnim mehanizmima za ostvarivanje radnih i socijalnih prava policijskih službenika, kao što su kolektivno pregovaranje, arbitraža i institucionalna zaštita putem sindikata. Cilj rada je da pruži uravnotežen i argumentovan doprinos stručnoj i akademskoj diskusiji o granicama i mogućnostima ostvarivanja prava na štrajk u sektoru bezbednosti, sa naglaskom na potrebe reformisanja i unapređenja zakonodavnog okvira u skladu sa demokratskim standardima i principima vladavine prava.

Ključne reči: štrajk, policijski službenici, radno pravo, sindikt, pregovaranje, zakonodavstvo

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