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WHAT IS TRULY ESSENTIAL? RETHINKING THE RIGHT TO STRIKE AND PUBLIC INTEREST IN SERBIA

Abstract: *The right to strike is a fundamental right. However, like all rights, it is not absolute and may be restricted when its exercise threatens other rights that society deems essential. The concept of "essential services" reflects the idea that certain activities are of such fundamental importance that their continuous operation may, in some cases, outweigh workers' right to withdraw their labour.*

The classification of services as essential varies significantly between societies, depending on their unique social, economic, and political contexts. This paper aims to examine the criteria by which a service is deemed essential within a given society and to analyze the challenges associated with applying this concept in Serbia.

It concludes that the current extensive list of activities subject to minimum service obligations, as prescribed by the Law on Strike, is undoubtedly open to criticism. However, given the underdeveloped state of social dialogue in Serbia, its existence may be partially justified, as the lack of meaningful social dialogue is a distinctive feature of the Serbian context – even if the approach does not fully comply with international standards.

In this regard, the legal obligation to ensure a minimum level of service in certain sectors (which clearly constitutes a restriction on the right to strike) should be balanced by negotiations between social partners regarding the scope of that minimum. Such dialogue is necessary to counter potential legislative overreach and the erosion of the right to strike.

Allowing social partners to determine the level of minimum service through negotiation (without altering the legally prescribed list of essential services) may not be a perfect solution. Nevertheless, it could represent a modest step forward in strengthening social dialogue. Ultimately, success in this area depends on

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the willingness of social partners to recognize their roles, accept their shared responsibilities, and act accordingly.

Key words: *the right to strike, public interest, essential service, minimum service, Serbia*

1. INTRODUCTION

The right to strike is one of the fundamental rights derived from labour and, as such, represents a powerful tool in a system inherently marked by inequality between the party demanding labour and the one performing it.

However, as is the case with other rights, it can only be exercised insofar as it does not endanger other rights that society considers fundamentally important. The key question, therefore, is which activities and situations justify limitations on the right to strike, or, more precisely, when such a limitation is truly in the public interest.

Each country implements and applies the right to strike differently, as no society is created or operates under exactly the same conditions. Therefore, what may be considered essential in one society may be regarded as non-essential in another.

Accordingly, this paper seeks to examine the criteria by which a service is deemed essential within a society and to analyze the difficulties surrounding the application of this concept in Serbia.

The main hypothesis is that the key obstacle to the effective exercise of the right to strike in services where the provision of minimum service is mandatory in Serbia lies not primarily in the legislator's broad definition of such services, but rather in the inadequate procedure for determining minimum service levels and, more fundamentally, in the underdeveloped state of social dialogue, which represents the underlying structural issue in this context.

In an effort to examine this hypothesis, this paper will first provide an overview of the right to strike, followed by a clarification of what constitutes an essential service in this context. It will then analyze the Serbian approach to the matter, with the research findings presented in the conclusion.

2. UNPACKING THE RIGHT TO STRIKE: BASICS AND IMPORTANCE

The concept of the strike symbolized „the right to resist oppression"[1] long before it was legally defined in labour law or recognized as a fundamental right under various international instruments.[2]

1 A. Gourevitch, (2018), The right to strike: A radical view, *American Political Science Review*, 4, p. 907.

2 The earliest recorded instances of strike action date back to ancient Egypt, when artisans refused to work in protest over not being paid their rations by Ramses III. See: W. Edgerton, (1951), The strikes in Ramses III'S twenty-ninth year, *Journal of Near Eastern Studies*, 3, pp. 137–145.

There is no single, universally accepted definition of a strike. However, it is most commonly understood as a temporary, collective cessation of work, undertaken to exert pressure on the employer or the state in order to protect professional and economic interests related to labour.

In modern history, strikes have been initiated for various reasons. At first, they were used as a means of pressuring employers to recognize trade unions as the legitimate representatives of workers. Subsequently, the strike became an instrument for the protection of workers' rights and, in some cases, a channel for voicing discontent with governmental social policies.[3]

The latter role, however, remains subject to certain limitations. While workers and their organizations are entitled to voice their discontent with governmental economic and social policies that adversely impact their interests, the strike must not be reduced to a purely political act.[4] At the same time, it would be equally inappropriate to confine the right to strike solely to industrial disputes intended to result in a collective agreement.[5]

In essence, the strike cannot be fully depoliticized, except in cases where it targets a specific employer and concerns internal demands confined to the framework of a single enterprise.[6] In that sense, it also serves as an important indicator of civil liberties.[7] However, it cannot be strictly used as a political tool, placed in the hands of various political actors who might exploit the workforce to achieve their own political goals.

The right to strike is today recognized as a fundamental right, whether acknowledged directly or indirectly, and represents an important tool for workers to promote and protect their economic and social interests.

The first international instrument to explicitly acknowledge the right to strike was the International Covenant on Economic, Social and Cultural Rights, which states that the States Parties to the Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular, „the right to strike, provided that it is exercised in conformity with the laws of the particular country."[8] At the regional level, recognition of the right to strike was established within the framework of the Council of Europe through Article 6 of the Revised European Social Charter, which guarantees the right to collective action,

3 See: P. Grzebyk, (2016) Justifications of the right to strike: from the rule of force to the rule of law, *Hungarian Labour Law E-Journal*, 2, pp. 45–47.

4 J. M. Servais, (2010), ILO law and the rights to strike, *The Canadian Labour and Employment Law Journal*, 2, pp. 150–151.

5 *Ibid*. p. 150.

6 M. Reljanović, (2019), *Alternativno radno zakonodavstvo*, Beograd, Rosa Luxemburg Stiftung Southeast Europe, pp. 261–262.

7 J. Misailović, (2022), Pravo na štrajk – derivat evolucije ljudskih prava, in: *Zaštita ljudskih prava i sloboda u svetlu međunarodnih i nacionalnih standarda*, Kosovska Mitrovica, Pravni fakultet Univerziteta u Prištini sa privremenim sedištem u Kosovskoj Mitrovici, p. 150.

8 International Covenant on Economic, Social and Cultural Rights, *Official Gazette of the SFRY,* no. 7/71.

including the right to strike, as a means of ensuring the effective exercise of the right to bargain collectively.[9]

On the other hand, the right to strike is indirectly acknowledged by the International Labour Organization (ILO) through Convention No. 87 on Freedom of Association and Protection of the Right to Organize.[10] Although the convention does not explicitly mention the right to strike, the practice of the ILO's supervisory bodies – particularly the Committee on Freedom of Association (CFA), consistently recognizes it as an integral component of the right to freedom of association.[11] A similar implicit recognition can be found in Article 11 of the European Convention on Human Rights, adopted by the Council of Europe.[12] The latter has been reinforced by the practice of the European Court of Human Rights (ECHR).[13]

Taken together, these international instruments reflect a consensus that the right to strike is a core element of democratic labour relations and social justice. However, its implementation continues to depend on how individual states incorporate these standards into their domestic legal systems.

In Serbia, the right to strike is primarily guaranteed by Article 61 of the Constitution of the Republic of Serbia[14] and is further regulated by the Law on Strike,[15] which defines it as "an interruption of work organised by employees to protect their professional and economic interests based on work."[16]

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9 The Revised European Social Charter, *Official Gazette of RS – International Agreements*, no. 42/09.

10 *Official Gazette of the FPRY – International Treaties and Other Agreements*, no. 8/58.

11 ILO, (2006), *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO,* Geneva, International Labour Office, Fifth (revised) edition, para. 520–523, hereinafter: ILO (2006). This right, however, has always been contested by employers' organizations and is now finally under examination by the International Court of Justice. See: The Right to Strike in International law amid Legal Challenges: Exploring Alternatives to ILO Convention No. 87, https://www.ejiltalk.org/the-right-to-strike-in-international-law-amid-legal-challenges-exploring-alternatives-to-ilo-convention-no-87/, 10. 09. 2025.

12 The European Convention on Human Rights, *Official Gazette of the SUSM – International Agreements*, no. 9/2003, 5/2005 and 7/2005 – corr. and *Official Gazette of RS – International Agreements*, no.12/2010 and 10/2015.

13 See: ECHR, Case of *Enerji Iapi-Iol Sen v. Turkey*, (Application No 68959/01), judgment, Strasbourg, 21. 04. 2009, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-1589%22]}, 11. 09. 2025. https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-1589%22]}, 11. 09. 2025.

14 The Constitution of the Republic of Serbia, *Official Gazette of RS*, no. 98/2006 and 115/2021, hereinafter: The Constitution of RS.

15 The Law on Strike, *Official Gazette of FRY*, no. 29/96 and *Official Gazette of RS,* no. 101/2005 – other law, and 103/2012 – decision of the Constitutional Court, hereinafter: The Law on Strike.

16 The Law on Strike, art. 1. In this way, the right to strike is guaranteed exclusively to formally employed persons, which contradicts the provisions of international legal instruments. Although new legislation was debated in 2013 and again in 2018, a revised Law on Strike was never adopted. Moreover, the existing law has not undergone any significant amendments – except for one change mandated by a decision of the Constitutional Court, which declared the previously imposed ban on the right to strike for members of the police forces and state administration unconstitutional. The Decision of the Constitutional Court, *Official Gazette of RS,* no. 103/2012.

Nevertheless, like many other rights, the right to strike remains subject to certain limitations. Its regulation involves balancing conflicting interests. On one hand, there are the benefits of collective bargaining, with the right to strike serving as a crucial tool in that process. On the other hand, there are public interests which, at times, must be prioritized, as they may be jeopardized by the exercise of this right. These public interests are often considered essential by society due to their fundamental importance. This raises a key question: what qualifies as truly essential?

3. WHAT CONSTITUTES AN ESSENTIAL SERVICE?

The concept of essential services reflects the idea that certain activities are of fundamental importance to the community, and that their interruption would cause harmful consequences – thus suggesting that ensuring their continuous operation may, in some cases, outweigh the workers' right to withdraw their labour.[17] This, however, does not mean that such services must be provided exclusively within the public sector.[18] Moreover, it implies that the state will regulate and intervene in the production and delivery of these services.[19] This, however, does not answer the question of what these services might be.

The CFA has identified certain services that may be classified as essential *stricto sensu*, such as: those in the hospital sector, water and electricity supply services, services provided by the police and armed forces, fire-fighting services, public or private prison services, air traffic control, and telephone services.[20] Services which, on the other hand, do not „fit the bill" to be classified as essential *stricto sensu* include: radio and television, the petroleum sector, the ports, banking, the metal and mining sectors, transport in general, postal services, refuse collection services, construction, the education sector, railway services, etc.[21] The latter list, as can be seen, is significantly more extensive.

According to the CFA, essential services are those the interuption of which threatens „the life, personal safety or health of the whole or part of the population."[22] For that reason, if such a threat is „clear and imminent", the right to strike in those services may be prohibited.[23] However, in situations where such an action (prohibition

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It would, however, not be appropriate to address the issue of the employment contract as a precondition for the worker's right to strike fully within this paper, as it constitutes a distinct and particularly complex matter.

17 G. Morris, (1983), The regulation of industrial action in essential services, *Industrial Law Journal*, 1, p. 69.

18 The healthcare sector being a prime example of this.

19 C. Pérez-Muñoz, (2014), Essential services, workers' freedom, and distributive justice, *Social Theory and Practice*, 4, pp. 651–652, hereinafter: C. Pérez-Muñoz (2014).

20 ILO (2006), *o. c.,* para. 585.

21 *Ibid.,* para. 587.

22 *Ibid.*, para. 581.

23 ILO, (2018), *Freedom of Association: Compilation of decisions of the Committee on Freedom of Association,* Geneva, International Labour Office, 6th edition, para. 836, hereinafter: ILO (2018).

of strike) would not appear to be justified, a minimum service could be an „appropriate alternative".[24]

The core parameter in determining whether a service is essential appears to lie in the nature and severity of the potential consequences resulting from its interruption. Ultimately, as discussed, the classification of a service as being essential or non-essential depends on whether its interruption would pose a threat to the life, personal safety, or health of all or part of the population. However, an additional factor also appears to be relevant. As Pillay observes, the choice of words used by the CFA in defining essential services, if interpreted strictly, leads to the conlusion that a service should be deemed essential only if its interruption would and not merely might, likely endanger life, personal safety, or health. A standard based on mere possibility would, accordingly, be overly broad and make the concept of minimum services meaningless.[25] Thus, the degree of possibility that such harm may occur must also be taken into account. Accordingly, the combination of the potential impact of a service interruption and the likelihood of such consequences may justify prioritising service continuity over the exercise of the right to strike – potentially even warranting its prohibition in certain cases.

The concept of an essential service is somewhat fluid, as services which are not essential *stricto sensu* may nonetheless become essential[26] „insofar as their disruption would have harmful consequences for all or part of the population".[27] Therefore, this „qualification" may vary, as all the circumstances of the specific case must be taken into account. Such is, *exempli causa*, the case of a strike in maritime port services, which would be far more disruptive for an island heavily dependent on such services for the provision of basic supplies than for a country that is an integral part of a continent.[28]

The duration and extent of a strike are also important variables. For that reason, if a strike in refuse collection services were to exceed a certain duration or scale to the point of endangering the life, personal safety, or health of the population, such a service might be considered essential.[29]

Indeed, the potential harmful effects of such a situation are evident even when viewed through the lens of a layperson. Therefore, this leads to the conclusion that a prolonged interruption of work or, better said, discontinuity in certain non-essential services that could result in „adequate" consequences may, in some cases, warrant their treatment as essential services, even though they do not meet the strict, technical definition of the term. However, the issue is not as straightforward as it may initially appear, as the potential harm in certain cases can be a somewhat

24 *Ibid*., para. 838, 867.
25 D. Pillay, (2012), Essential services : developing tools for minimum service agreements, *Industrial Law Journal*, 1, p. 807.
26 ILO, (1994), *Freedom of Association and Collective Bargaining*, Geneva,International Labour Office, para. 160, hereinafter: ILO (1994).
27 C. Pérez-Muñoz (2014), *o. c.,* p. 652.
28 ILO (1994), *o. c.,* para. 160.
29 ILO (2006), *o. c.,* para. 585.

questionable factor for classification – an ambiguity perhaps best illustrated by the example of the education sector.

It is not particularly uncommon for education services to be declared or treated as essential. One of the most recent examples is Argentina's Decree 340/25, which classified education as an essential service in the context of the right to strike.[30] Education services are also considered essential in Italy,[31] as well as by the relevant courts in Spain,[32] while in France, during strikes in nurseries and primary schools, it is required that children be supervised – though not necessarily taught.[33]

Nevertheless, Pérez Muñoz argues, that the „harm-based approach" to classifying essential services does not support the inclusion of education services within that category.[34] This is primarily because the harm resulting from the interruption of education is not commensurate with the potential for immediate and irreparable damage that may arise from the disruption of services such as health care. Furthermore, restricting the right to strike in the education sector entails significant costs – both for the educational system and for the rights and interests of the actors involved.[35]

Indeed, a single day of disruption in health services (potentially endangering many lives) is not comparable to a day in which students miss school. Moreover, a sector in which there is no room to negotiate better working conditions is unlikely to attract or retain high-quality educators, ultimately disadvantaging both current and future teachers and students. It should further be noted that, whereas the risks posed by extended interruptions in refuse collection services are apparent and may justify their classification as essential, such a conclusion is less evident in the case of education services.

When it comes to education services, continuity of service does not necessarily guarantee quality. Nonetheless, a prolonged interruption of work in the education sector might cause potential long-term moral harm, as well as negatively impact the quality of life of generations of students affected by the strike. However, any assertion regarding the existence or extent of such harm must be supported by evidence, which would require objective, long-term research. In that sense, it appears that Pérez Muñoz may have a point in arguing that a harm-based approach is insufficient to justify the classification of education as an essential service (even

30 Argentina: Unions denounce new government attack on the right to strike and teacher salaries, https://www.ei-ie.org/en/item/29936:argentina-unions-denounce-new-government-attack-on-the-right-to-strike-and-teacher-salaries, 31. 8. 2025.

31 More on this subject in: A. Topo, (2018), *Strike in the Essential Services: Italy*, Centre for the Study of European Labour Law „Massimo D'Antona", University of Catania, available at SSRN: https://ssrn.com/abstract=3357928, 30. 8. 2025, p. 384, hereinafter: A. Topo.

32 L. Fulton, (2023), *Minimum service levels during strikes: LRD examines the rules in Europe*, London, Labour Research Department, p. 17, hereinafter: L. Fulton.

33 *Ibid.*, p. 12.

34 C. Pérez-Muñoz, (2023), Essential services, public education workers, and the right to strike, *Political Research Quarterly*, 2, p. 565.

35 *Ibid.*, p. 566.

in the broader sense of the term). That, however, does not change the fact that the education sector is an important part of every functioning society.

Thus, it is no surprise that the CFA, when determining where the provision of minimum service may be required, draws a distinction between: (1) 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); (2) services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population; and (3) public services of fundamental importance.[36]

In light of the discussion so far, education services appear to fall somewhere in between the second and the third category,[37] however, in the authors' opinion, they clearly tend toward the latter. Katsaroumpas shares this view, arguing that education, along with transport, cannot be classified as essential services, but rather as public services of fundamental importance.[38]

To that note, the CFA has stated that "the possible long-term consequences of strikes in the teaching sector do not justify their prohibition."[39] However, likely taking into account the potential consequences that a prolonged disruption in certain activities within the education sector may have on the normal functioning of society, the CFA also stated that "minimum services may be established in the education sector, in full consultation with the social partners, in cases of strikes of long duration."[40] The latter is, in the author's opinion, of crucial importance in such situations, as the establishment of minimum services solely by the state or the employer can render the strike meaningless.

While the regulation of minimum service in the education sector is one way to balance the right to strike with the continuity of public services, this alone does not exhaust the legal debate. A broader and more contentious issue is whether, and under what conditions, the right to strike may be entirely prohibited in certain sectors. This raises important questions about proportionality, necessity, and the boundaries set by international labour standards.The prohibition of the right to strike, as a restrictive measure, as demonstrated, is one that a state should resort to only in exceptional cases (even when it comes to essential services *stricto sensu*)

36 ILO (2006), *o. c.,* para. 606.

37 Given the fact that nurseries and the primary education of children under the age of 10 also fall within this sector – a matter which makes the classification a bit more difficult.

38 I. Katsaroumpas, (2023), *The Strikes (Minimum Service Levels) Bill: A blatant violation of international labour standards*, https://uklabourlawblog.com/2023/01/18/the-strikes-minimum-service-bill-a-blatant-violation-of-international-labour-standards-by-ioannis-katsaroumpas/, 06. 09. 2025. In its practice, the CFA has also classified transport as part of this category of services. See: ILO (2006), *o. c.,* para. 621.

39 ILO (2006), *o. c.,* para. 590.

40 *Ibid*., para. 625. The positions of principals and vice-principals in the education sector constitute a notable exception, as acknowledged in the practice of the CFA. This distinction is arguably reasonable, given that individuals in such roles are expected to represent not only their own interests or those of their colleagues, but also those of the employer. ILO (2018), *op. cit.,* para. 844.

– and specifically when ensuring a minimum level of service is not a viable alternative. However, exceptions do exist in the practice of some countries. It is therefore possible to distinguish between a *function-based* and a *status-based strike ban*, as illustrated by the example of civil servants in comparative law.[41]

An example of a function-based state ban can be found in the French legal system, where, depending on the specific role of a civil servant, the right to strike is prohibited for judicial officers, members of the national police, military personnel, employees of the national communications network under the Ministry of the Interior, and members of the external services of the prison administration.[42]

A prime example of a status-based strike ban, on the other hand, can be found in Germany, where the right to strike is prohibited for all formally appointed civil servants, as a consequence of their duty of loyalty to the state – stemming from the numerous privileges associated with civil servant status.[43]

The latter ban has led to some contentious situations. For context, it allowed for a distinction to be made between individuals working in the education sector based solely on whether they were formally appointed as civil servants or employed under an employment contract – denying the right to strike to the former, while granting it to the latter.[44] The decision of the ECHR in the Humpert case, which held that such a practice did not violate Article 11 of the European Convention on Human Rights, added further controversy.[45] In contrast, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) has encouraged the German Government to explore potential reforms and avenues through which the current system might evolve to ensure effective recognition of the right to collective bargaining for public servants who are not engaged in the administration of the State.[46]

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41 G. Buchholtz, (2025), The Right to Strike in the Civil Service, in; K. P. Sommermann, A. Krzywoń, C. Fraenkel-Haeberle (eds.), *The civil service in Europe: A research companion*, New York, Routledge, p. 859, hereinafter: G. Buchholtz. Note to the Serbian reader: in comparative labour law, it is not uncommon for civil service to be considered **a** subset of the broader public service. The strict distinction between the two (as defined in Serbian law**)** should not be seen as a universal rule, but rather as **a** specific feature of the Serbian legal system**.** In Serbia**,** civil servants are typically responsible for administrative, legal, and financial tasks within the state apparatus**,** and their employment is established through an administrative decision. In contrast, individuals working in public services (e.g., the education sector) are employed based on employment contracts and are categorized as public servants**,** rather than civil servants. However, this distinction does not necessarily exist in many other legal systems**.** In a number of European countries, public service encompasses both civil servants and other categories of public employees.

42 EPSU and ETUI, The right to strike in the public sector: France, https://www.epsu.org/sites/default/files/article/files/France%20-%20Right%20to%20strike%20in%20public%20sector.pdf, 2. 9. 2025.

43 G. Buchholtz, pp. 863–866.

44 *Ibid.*, 865.

45 ECHR, *Case of Humpert and Others v. Germany*, (Application No(s)., 59433/18, 59477/18, 59481/18, 59494/18, Court (Grand Chamber), judgment, 14. 12. 2023, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-229726%22]}, para. 98–147.

46 Observation (CEACR) – adopted 2024, https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4416862,102643, 5. 9. 2025.

This is also in accordance with the practice of the CFA, according to which the right to strike may be prohibited only for public servants exercising authority in the name of the State.[47]

Regardless of one's individual stance on this issue, it is ultimately safe to conclude that excessive restrictions on the right to strike may severely undermine the right to collective bargaining. Without the ability to withdraw labour, collective bargaining risks being reduced to mere "collective begging."[48]

4. ESSENTIAL OR NOT? THE SERBIAN APPROACH

If one were to closely examine the Serbian Law on Strike, it becomes evident that the term „essential services" is nowhere explicitly mentioned in its wording. Instead, the law refers to „the activities of public interest" as well as the „activities whose interruption could endanger human life and health or cause large-scale damage due to the nature of the work" and imposes requirements for the establishment of a „minimum work process" in such services – without directly employing internationally recognized terminology.[49]

However, this effectively means that the Serbian legal system recognizes two separate strike regimes: a *general regime* and a *special regime*. The general strike regime applies to all sectors that are non-essential in nature, while special rules on the right to strike are specifically designed for sectors considered „essential".[50] The latter applies unless the right to strike concerns the provision of emergency medical assistance,[51] the armed forces[52] or members of Security-Information Agency, [53] for whom the right to strike is explicitly denied.

Members of the police forces are generally granted the right to strike under normal circumstances – however, this right is suspended during exceptional situations such as a state of war or emergency, natural disasters, or other crises and accidents that disrupt the normal course of life and endanger the safety of people and property.[54] Even when permitted, this right is subject to certain limitations, such as

47 ILO (2006), *o. c.,* para. 574.

48 E. Tucker, (2014), Can worker voice strike back? Law and the decline and uncertain future of strikes, in: A. Bogg, T. Novtiz, (eds), *Voices at work*, Oxford, Oxford University Press, pp. 455–473, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2362511, 06. 09. 2025.

49 The Law on Strike, art. 9–10.

50 The Law on Strike, art. 9–13.

51 The Law on Health Care, *Official Gazette of the Republic of Serbia*, no. 25/2019 and 92/2023 – authentic interpretation, art. 57, para. 1.

52 The Law on the Armed Forces of Serbia, *Official Gazette of RS*, nos. 116/2007, 88/2009, 101/2010 – other legislation, 10/2015, 88/2015 – Constitutional Court decision, 36/2018, 94/2019, and 74/2021 – Constitutional Court decision, art. 14, para. 5.

53 The Law on the Security-Information Agency, *Official Gazette of RS*, nos. 42/2002, 111/2009, 65/2014 – Constitutional Court decision, 66/2014, and 36/2018, art. 20, para. 2.

54 The Law on Police, *Official Gazette of RS*, no. 6/2016, 24/2018 and 87/2018, art. 170, para 1–2, hereinafter: The Law on Police.

the obligation to maintain minimum service.[55] In other words, police services are also regarded as essential.

And while the services provided by the police and armed forces are undeniably essential, a closer examination of other services that, under the relevant legislation, seemingly fall into the same category suggests that the legislator, at the time of enacting the Law on Strike in 1996, did not fully grasp the complexity of the task at hand.

For example, when refering to the activites that are, according to the wording of the Law on Strike, the activities of public interest, the lawmaker chose to enlist all of the activities classified as such – them being: electricity, water, transport, information (radio and television), PTT services, communal activities, production of basic food products, health and veterinary care, education, social care for children and social protection. Activities of special importance for defence of the state and state security (determined by the competent authority in accordance with the law), as well as the tasks necessary for the fulfilment of the state's international obligations, are also included on this list.[56]

Additionaly the legislator classifies activities such as chemical industry, steel industry and ferrous and non-ferrous metallurgy, as activities whose interruption could endanger human life and health or cause large-scale damage due to the nature of the work.[57]

In all of these activities, there is an obligation to maintain a minimum level of service, while the prohibition of the right to strike in certain services, as discussed, is established by specific regulations. In other words, from a nomotechnical standpoint, the Law on Strike does not distinguish between services that are essential in the strict sense of the word and those that are not. Nonetheless, from a logical perspective, those services in which the right to strike is prohibited undoubtedly fall within the category of essential services *stricto sensu*.

The necessity of maintaining such an extensive list of activities subject to minimum service obligations is, however, debatable. While the CFA has acknowledged that minimum service levels may be imposed in several of these sectors, such measures are, as a rule, to be applied only when the circumstances of the case objectively require them.[58]

To that end, it should be noted that the Committee on Economic, Social and Cultural Rights (CESCR), in its 2022 observations, recommended that Serbia amend the Law on Strike to narrow the definition of essential services, thereby ensuring the effective exercise of the right to strike without undue restrictions.[59] In its 2023 conclusions, the European Committee of Social Rights (ECSR) echoed this concern,

55 The Law on Police, art. 170, para. 4.

56 The Law on Strike, art. 9, para. 2–3.

57 The Law on Strike, art. 9, para. 4.

58 See for example: ILO (2018), *o. c.*, para. 886–900. The author's remark, however, is that the information sector (namely radio and television) has not proven to be of such importance in recent years, although, admittedly, this decline in significance has been largely influenced by the rise of various social media platforms.

59 *Ibid.,* para. 48.

emphasizing that the Law on Strike permits restrictions on the right to strike across an excessively broad range of sectors. According to the ECSR, such a situation is not in conformity with the Revised European Social Charter. [60]

In short, such an extensive list of activities in which minimum service must always be ensured, without a case-by-case approach, and regardless of the circumstances, is not in line with international standards.[61] On the other hand, the question arises as to who should determine, in each specific case, whether such an obligation is truly necessary in that particular situation. According to CFA practice, this determination should ideally be made through cooperation between social partners,[62] however, it can also be made by a neutral body if an agreement is not reached.[63] The latter, however, raises the question of the actual neutrality of such a body in practice.

On the other hand, the CFA has also accepted that this determination may be made by a government decision, provided that the circumstances of the case justify such an approach.[64] However, it should also be emphasized that the CFA has stated that "it is important that the provisions regarding the minimum service to be maintained in the event of a strike in an essential service are established clearly, applied strictly, and made known to those concerned in due time."[65]

In that sense, given the underdeveloped state of social dialogue, such a list *might* be somewhat warranted, insofar as it serves to remind employees and trade unions, of their responsibility toward broader societal interests. Not only have trade unions still not managed to adapt to the post-transition context of political and trade union pluralism, but internal disagreements between unions continue to hinder their cooperation.[66] On the other hand, in many cases, they actually lack a counterpart with whom to engage in collective bargaining. [67] The employer, whether it is the state or a private actor, must be aware that the public interest cannot be used as a justification for exploitation. After all, the current state of social dialogue is not solely the result of the trade unions' lack of capacity, since any negotiation requires at least two parties – and in this case, sometimes even more.

Ultimately, the degree of development of social dialogue in Serbia is perhaps best reflected in the number of collective agreements concluded.[68] Moreover, it is particularly concerning that no General Collective Agreement has been signed since 2011, when the previous one expired. More than a decade later, there has been no indication of any intent to initiate negotiations for a new agreement, reflecting a prolonged and systemic neglect of social dialogue at the national level.

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60 ECSR, Conclusions 2023 – Serbia – Art. 6–4, 2022/def/SRB/6/4/EN.

61 ILO (2006), *o. c.,* para. 609.

62 *Ibid.,* para. 609–610.

63 *Ibid.*, para. 618.

64 *Ibid.,* para. 626.

65 *Ibid.,* para. 611.

66 More on this matter in: B. Urdarević, (2021), Ostvarivanje prava na kolektivno pregovaranje u Republici Srbiji, in: *Usklađivanje pravnog sistema Srbije sa standardima Evropske Unije*, Kragujevac, Pravni fakultet u Kragujevcu, pp. 99–112, hereinafter, B. Urdarević.

67 *Ibid.*

68 *Ibid.*

Undoubtedly, this factor should be seen as a distinctive element of the Serbian case. The central challenge, therefore, is to regulate the right to strike in a manner that balances the interests of all social partners, prevents excessive restrictions, and ensures better compliance with ratified international standards. Put differently, one must ask: what is the core problem with the current provisions of the Law on Strike?

The answer to that question, it appears, lies in the process of determining the extent of minimum service. Namely, according to the wording of the Law on Strike, employee participation in determining the minimum service is reduced to merely giving an opinion on the matter. The founder (i.e., the state) or the manager (depending on whether the case involves a public service/enterprise or a private-sector employer) is responsible for determining minimum service levels. The only limitation is the requirement to seek a prior, non-binding opinion from the trade union, which must be taken into account.[69] Nonetheless, this remains a vague provision, as there is no clear standard for determining whether the employer truly took the trade union's opinion into account when setting a minimum service level that ultimately does not align with it.

However, as noted by the CFA, the determination of minimum services should involve not only public authorities and relevant employers but also workers' organizations.[70] To that end, in its 2022 direct request, the CEACR emphasized the need for Serbia to revise the Law on Strike, particularly the provision permitting employers to unilaterally determine minimum service levels during industrial action[71] Otherwise, the state and the employer may misuse this authority, effectively rendering the strike meaningless.[72] In this context, it is also worth noting that the ECSR likewise concluded that employees and employers do not participate on an equal footing in determining the minimum services required during strikes – a practice that is not in conformity with the Revised European Social Charter.[73]

Ideally, issues of this nature ought to be regulated by the terms of an existing collective agreement, as they are best addressed by the parties directly involved in the negotiation process and any potential dispute. It is also a practice that is not unheard of in comparative law, even though the degree of freedom in negotiating minimum service levels may vary.

It remains open to question whether such a practice is compatible with the Constitution of RS, which stipulates that any restriction on the right to strike must

69 The Law on Strike, art. 10.

70 ILO (2006), *o. c.,* para. 612.

71 Direct Request (CEACR) – adopted 2022, published 111st ILC session (2023), https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:4303526,102839,Serbia,2022.

72 The prime example of such a practice was the Regulation governing the issue of police officers' strikes, which defined the minimum service as the work of at least 90% of police officers in the organizational unit where the strike is being held, and which limited the strike duration to no more than 30 minutes. More on this matter in: R. Brković, B. Urdarević, (2023), *Radno pravo sa elementima socijalnog prava*, Beograd, Službeni glasnik, pp. 314–315. On that note – even within strictly essential services, the obligation to provide minimum service does not apply to every role, since not all employee duties are considered essential. ILO (2006), *o. c.,* para. 593.

73 ECSR, Conclusions 2023 – Serbia – Art. 6–4, 2022/def/SRB/6/4/EN.

be established by law and justified by the nature or type of business activity.[74] If the constitutional provision were to be interpreted narrowly, and the concept of minimum service viewed strictly as a restriction on the right to strike, the answer would likely be negative. Things, however, can be approached from an entirely different perspective. The obligation to ensure a minimum level of service in certain sectors, as a specific restriction on the right to strike, is undoubtedly established by special legislations, as previously demonstrated. Why, then, should negotiations between social partners on the scope of minimum service not be seen as a necessary counterbalance to potential legislative overreach and the undermining of the right to strike? If viewed from this perspective, the collective agreement would not function as a means of limiting the right to strike, but rather as a tool for its protection, within the bounds set by the particular characteristics of the relevant activity or sector.

In Italy, the collective agreement is considered the primary legal instrument for defining minimum service levels, although the scope of collective bargaining on this matter is somewhat limited.[75] The first such limitation is the requirement that no more than one-third of the normal workforce may be on duty, while the second is the expectation that approximately fifty percent of the normal service be maintained – an obligation that, in some sectors, may prove insufficient.[76] The third limitation lies in the fact that minimum service levels are subject to reevaluation by the Guarantee Commission for Strikes, based on an assessment of whether the established arrangements adequately meet consumer needs.[77] However, there have been cases in which the courts determined that the Guarantee Commission for Strikes had exceeded its authority – most notably, when it imposed a mandatory 20 day interval between strikes without conducting a sufficiently thorough assessment of the specific circumstances involved.[78] And even though, granted, the named Commission is intended to be an impartial body (composed of experts in the fields of labour law, constitutional law, and industrial relations) its members are nonetheless appointed by the Parliament.[79] This raises the author's concern as to whether such a structure leaves room for excessive state intervention.[80] And while this concern may ultimately be unfounded (acknowledging that the author is not an expert in Italian industrial relations), to a non-connoisseur of Italian labour law

74 The Constitution of RS, art. 61, para. 2.

75 A. Topo, p. 385.

76 *Ibid*. 386.

77 L. Fulton, *o. c.,* p. 15.

78 *Ibid.*, p. 15. For context, one of the preconditions for a collective agreement to be considered legitimate is the inclusion of a minimum interval between a strike and any subsequent strike, as it is deemed unacceptable for an essential service to remain non-operational for an extended period of time. See: A. Topo, p. 386.

79 *Ibid.,* 387.

80 This especially given the fact that the said commission is not only authorized to impose a temporary binding regulation when the parties fail to reach an agreement or when it does not approve a proposed agreement, but also has the authority to communicate the matter to the competent administrative authority responsible for issuing an injunction on the strike. *Ibid.,* pp. 387–388.

such reevaluation may appear redundant in the public sector, where the state is already inherently involved in collective bargaining.

In France, on the other hand, a more sector-based approach is applied, whereby (for example) minimum service levels may be negotiated between transportation service providers and the state or local authorities.[81] At the same time, the Swedish trade unions arguably enjoy the most extensive liberties, as the matter of essential services is largely self-regulated through autonomous collective bargaining.[82]

Since no solution from comparative law (not even the most successful one) can be directly transplanted into another legal system, such reflections may simply serve as food for thought for the Serbian legislator, who may ultimately be guided by the idea of entrusting this matter primarily to collective bargaining. However, for such a solution to be viable, significant reforms must be undertaken to improve the state of social dialogue in Serbia, which is currently largely absent.

Of course, as with all matters that may be subject to collective bargaining, there is always the possibility of a dispute arising during negotiations on minimum service levels. In such cases, as noted by the CFA the legislation should ensure that any disagreement is settled by an independent body (rather than the relevant ministry) that enjoys the confidence of the parties concerned.[83] According to Serbian legislation, such a body already exists in the form of the Republic agency for peaceful settlement of labour disputes (RAPSLD), which, among other things, is also competent to handle collective labour disputes concerning minimum services.[84] As a matter of fact, the law explicitly mandates that the parties involved in disputes arising from activities subject to the obligation of maintaining minimum service, pursuant to the Law on Strike, are required to engage in the conciliation of collective labour disputes before the RAPSLD.[85]

Granted, the recommendation issued by the conciliator acting on behalf of the RAPSLD is not legally binding.[86] Nonetheless, a capable conciliator will be able to identify the respective interests of the parties to the dispute and assist them in negotiating a mutually acceptable solution, which would subsequently be formalized in a written settlement agreement.[87] Such an agreement may later be incorporated as an integral part of the collective agreement.[88]

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81 L. Fulton, *o. c.*, p. 11.

82 See: P. Herzfeld Olsson, S. McCrystal, (2025), Balancing the right to strike and other public interests: The importance of the status of the right to strike, *Comparative Labor Law & Policy Journal*, 2, pp. 327–330.

83 ILO (2018), *o. c.,* para. 882–884.

84 The Law on the Peaceful Settlement of Labour Disputes, *Official Gazette of RS*, nos. 125/2004, 104/2009, and 50/2018, art. 2, para. 1, subpara. 5a, hereinafter: The Law on the Peaceful Settlement of Labour Disputes.

85 The Law on the Peaceful Settlement of Labour Disputes, art. 18.

86 The Law on the Peaceful Settlement of Labour Disputes, art. 26, para. 1.

87 For more on the procedure of conciliation in Serbia, see: M. Petrović, (2022), Prednosti i mane mirnog rešavanja kolektivnih radnih sporova u Republici Srbiji, *Radno i socijalno pravo,* 1, pp. 171–194.

88 The Law on the Peaceful Settlement of Labour Disputes, art. 26, para. 3.

The idea of allowing social partners to define the level of minimum service through negotiations (without interfering with the list of services prescribed by law, in which such a minimum must be ensured) may not be an ideal solution, however, it could represent a small step toward the improvement of social dialogue. After all, exceptional steps are rarely feasible in practice. However, we must strive to make collective bargaining a habit, rather than just an exception to the rule.

At this moment, there are 13 special collective agreements concluded at the national level. Out of that number, only two collective agreements have been concluded in the private sector, while the remaining 11 have been concluded in the public sector.[89] Both of the collective agreements, which were concluded for the private sector, are highly contentious and questionable with regard to their legality.

The first such agreement is the Special Collective Agreement for the Road Industry of the Republic of Serbia,[90] one of the signatories of which is the Association of Road Transport Employers of the Republic of Serbia "Putar" – an association that does not hold representative status and therefore does not have the legal authority to conclude such a collective agreement.

The second is the Special Collective Agreement for the Engagement of Performing-Musical Artists and Performers in the Hospitality Sector,[91] signed by the Independent Trade Union of Performing Artists and Performers of Serbia, whose right to unionize is disputable under the current legal framework, given that its members often do not hold formal employment status.[92] Notably, this is also the only collective agreement of this kind concluded by the sole representative association of employers in Serbia – the Serbian Association of Employers.

As for collective agreements at the employer level, their exact number is unknown, since such agreements are not subject to mandatory publication. However, according to certain estimates, collective agreement coverage is declining – which is not surprising in a context where no General Collective Agreement has been concluded and where the number of special collective agreements remains modest.[93]

The overall social, political and legal context, which is in fact the main reason behind the low level of social partnership and the current state of social dialogue, is far too complex to be examined within the scope of this paper. Nevertheless, based on the points presented above, it is more than evident that such dialogue is, for the most part, virtually non-existent.

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89 Sektor za zapošljavanje, https://www.minrzs.gov.rs/sr/registri/sektor-za-rad-i-zaposljavanje, 9. 9. 2025.

90 The Special Collective Agreement for the Road Industry of the Republic of Serbia, *Official Gazette of RS*, no. 14/2018.

91 The Special Collective Agreement for the Engagement of Performing-Musical Artists and Performers in the Hospitality Sector, *Official Gazette of RS*, no. 119/2023.

92 "The employees are guaranteed the freedom to organize in trade unions and engage in trade union activity which shall require no approval, pending registration." The Labour Law, *Official Gazette of RS*, nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – Decision of the Constitutional Court, 113/2017, and 95/2018 – authentic interpretation, art. 206.

93 More on this matter in: B. Urdarević, pp. 106–107.

Ultimately, if the previous negotiations and the involvement of a conciliator do not yield an agreement, the court stands ready as the final decision-maker in resolving the dispute.[94] However, this raises the question of how appropriate such an imposed solution is within the context of interest-based collective labour disputes, and to what extent it can genuinely contribute to lasting social peace.[95] Consequently, this should, in any case, constitute an exception rather than the rule, as is, after all, prescribed by the Serbian Civil Procedure Act.[96]

In the end, if there is truly a genuine intention to properly regulate the issues of the right to strike and minimum service obligations (both normatively and practically), it is time for the social partners to finally "look in the mirror," acknowledge their share of responsibility, and start acting accordingly.

5. CONCLUSION

The right to strike is a fundamental right and serves as a powerful instrument within a system inherently characterized by an imbalance between those who provide labour and those who demand it.

However, like all rights, it is not absolute and may be restricted when its exercise threatens other rights deemed essential by society.

The concept of essential services reflects the idea that certain activities are of fundamental importance to the community, and that their interruption would cause harmful consequences – thus suggesting that ensuring their continuous operation may, in some cases, outweigh the workers' right to withdraw their labour.

This does not necessarily imply that such services must be delivered exclusively by the public sector. Rather, it suggests that the state has a role in regulating and, when necessary, intervening in their provision and delivery.

Each country approaches the right to strike in its own way, reflecting the unique social, economic, and political realities in which it operates. Thus, the classification of services as essential can differ significantly from one society to another.

A close reading of the Serbian Law on Strike reveals that the term "essential services" is not explicitly used in the text. Instead, the law refers to "activities of public interest" and "activities whose interruption could endanger human life and health or cause large-scale damage due to the nature of the work", requiring the establishment of a minimum service in such cases.

And while all of these activities are subject to a legal obligation to maintain a minimum level of service, the prohibition of the right to strike is imposed in certain sectors through specific regulations. In other words, from a nomotechnical

94 ILO (2018), *p. c.,* para 885.

95 Further details on the judicial settlement of collective labour disputes in Serbian law are available in: P. Jovanović, (2014), Nasleđeno i sadašnje stanje kolektivnih prava zaposlenih u svetlu aktuelnih promena u radnom zakonodavstvu, *Radno i socijalno pravo*, 1, pp. 23–24.

96 Civil Procedure Act, *Official* Gazette *of RS*, no. 72/2011, 49/2013 – Constitutional Court Decision, 74/2013 – Constitutional Court Decision, 55/2014, 87/2018, 18/2020, and 10/2023 – other laws.

perspective, the Law on Strike does not differentiate between services that are essential *stricto sensu* and those that are not. Nevertheless, from a logical standpoint, services in which the right to strike is explicitly prohibited (such as emergency medical assistance) clearly fall within the category of essential services *stricto sensu*.

The necessity of maintaining such an extensive list of activities subject to minimum service obligations is, however, debatable. Nevertheless, given the underdeveloped state of social dialogue in Serbia, such a list may be somewhat justified, as this factor represents a distinctive feature of the Serbian context – even though it does not fully comply with international standards.

What, however, seems to be at the heart of the issue is the process by which the extent of minimum service is determined, as the role of the trade union is reduced to providing a prior, non-binding opinion that "must" be taken into account. The word "must" is emphasized because this provision is vague, as there is no clear standard for assessing whether the employer or the state genuinely considered the trade union's opinion when establishing the minimum service level, especially when it does not align with that opinion.

Accordingly, the position taken in this paper is that the legal obligation to ensure a minimum level of service in certain sectors (which clearly constitutes a restriction on the right to strike) should be complemented by negotiations between social partners regarding the scope of that minimum, as a necessary counterbalance to potential legislative overreach and the weakening of the right to strike.

Such a solution would have the potential to acknowledge the current state of social dialogue in Serbia, protect the interests of users of services essential for the normal functioning of society, and also impose an obligation on the state and employers to act as parties that must listen and engage, rather than solely dictate. The idea of allowing social partners to determine the level of minimum service through negotiations (without altering the legally prescribed list of services for which such minimums must be ensured) may not be a perfect solution. Nevertheless, it could represent a small step forward in improving social dialogue. After all, sweeping changes are rarely achievable in practice. Still, it is essential to make collective bargaining a regular practice rather than an occasional exception.

Ideally, all matters concerning the scope of minimum services should be subject to agreement, whether reached through direct negotiations (i.e., without the involvement of other actors) or with the assistance of a conciliator from the RAPSLD.

In the end, if there is truly a genuine intention to properly regulate the right to strike and minimum service obligations (both in theory and in practice) everything ultimately depends on the will of the social partners. It is time for them to finally recognize their role, acknowledge their share of responsibility, and start acting accordingly.

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ŠTA JE ZAISTA OD JAVNOG INTERESA? PREISPITIVANJE PRAVA NA ŠTRAJK U DELATNOSTIMA OD JAVNOG INTERESA U SRBIJI

Sažetak

Iako je pravo na štrajk osnovno pravo ono, kao i sva prava, nije apsolutno i može biti ograničeno kada njegovo ostvarivanje ugrožava druga prava koja društvo smatra suštinski važnim. Pojam 'esencijalnih' delatnosti stoga odražava ideju da su određene aktivnosti od takvog fundamentalnog značaja da njihovo neprekidno funkcionisanje, u nekim slučajevima, može imati prednost u odnosu na pravo radnika da obustave rad.

Sama klasifikacija usluga kao esencijalnih značajno varira između različitih društava, u zavisnosti od njihovih jedinstvenih socijalnih, ekonomskih i političkih okolnosti. Shodno tome, ovaj rad ima za cilj da ispita kriterijume prema kojima se neka usluga smatra esencijalnom u određenom društvu i da analizira izazove povezane sa primenom tog koncepta u Srbiji.

Ukoliko se odredbe srpskog Zakona o štrajku pažljivo čitaju, postaje jasno da se termin tzv. esencijalnih delatnosti u tekstu zakona eksplicitno ne upotrebljava. Umesto toga, zakon se poziva na 'delatnosti od javnog interesa' i 'delatnosti čiji bi prekid rada po prirodi posla mogao da ugrozi život i zdravlje ljudi ili da nanese štetu velikih razmera', i u tim slučajevima zahteva uspostavljanje minimuma procesa rada.

I dok su sve ove delatnosti predmet zakonske obaveze održavanja minimuma procesa rada, zabrana prava na štrajk se u određenim sektorima uvodi posebnim propisima. Drugim rečima, sa nomotehničke tačke gledišta, Zakon o štrajku ne pravi razliku između delatnosti koje su esencijalne stricto sensu *i onih koje to nisu. Ipak, sa logičkog stanovišta, delatnosti u kojima je pravo na štrajk*

eksplicitno zabranjeno (kao što je to slučaj sa hitnom medicinskom pomoći) očigledno spadaju u kategoriju esencijalnih delatnosti u strogom smislu te reči.

Iako je važeća lista aktivnosti koje podležu obavezi obezbeđivanja minimuma procesa rada, kako je propisano Zakonom o štrajku, nesumnjivo preobimna i podložna kritikama, postavlja se pitanje njene opravdanosti. Ovo jer je izrazit nedostatak socijalnog dijaloga upravo i karakteristična odlika srpskog konteksta koji, čini se, treba uvažiti (čak i ako takav pristup nije u potpunosti u skladu sa međunarodnim standardima).

U tom smislu, zakonska obaveza da se u određenim sektorima obezbedi minimum procesa rada (što očigledno predstavlja ograničenje prava na štrajk) trebalo bi da bude uravnotežena pregovorima između socijalnih partnera o obimu takvog minimuma. Drugim rečima, zaposleni, odnosno, sindikat, moraju imati pravo glasa u pogledu obima i vrste posla koji je podoban da se definiše kao minimum procesa rada. Drugačije rešenje svakako vodi potencijalnim zloupotrebama i obesmišljavanju prava na štrajk.

Takvo rešenje imalo bi potencijal da uvaži trenutno stanje socijalnog dijaloga u Srbiji, zaštiti interese korisnika usluga koje su od javnog interesa, ali i da nametne obavezu državi i poslodavcima da deluju kao strane koje moraju da slušaju i učestvuju u dijalogu, a ne da isključivo nameću odluke. Ideja da se socijalnim partnerima omogući da putem pregovora određuju nivo minimuma procesa rada (bez promene zakonski propisane liste delatnosti za koje takav minimum mora biti obezbeđen) definitivo nije savršeno rešenje. Ipak, sveobuhvatne promene retko su izvodljive u praksi.

U idealnim uslovima, sva pitanja u vezi sa obimom minimuma procesa rada trebalo bi da budu predmet dogovora, bilo da se do njega dođe direktnim pregovorima (bez učešća drugih aktera) ili uz pomoć miritelja Republičke agencije za mirno rešavanje radnih sporova.

Drugim rečima, ukoliko zaista postoji iskrena namera da se pravo na štrajk i obaveza obezbeđivanja minimuma procesa rada adekvatno urede (kako u teoriji, tako i u praksi), to podrazumeva i dobru volju i odgovarajuće postupanje socijalnih partnera.

Ključne reči: *pravo na štrajk, javni interes, delatnosti od javnog interesa, minimum procesa rada, Srbija*