Law on Strike

On the basis of Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby pass the

ENACTMENT
PROCLAIMING THE LAW ON STRIKE
(Official Gazette of the Republic of Montenegro, No 43/03, 61/04, 71/05)

I hereby proclaim the Law on Strike, adopted by the Parliament of the Republic of Montenegro at the second meeting of the first regular session in 2003, held on the 8th July 2003.

No 01-442/2
Podgorica
9 July 2003

President of the Republic of Montenegro
Filip Vujanovic, signed

LAW ON STRIKE

The Concept of Strike and Decision-Making Freedom
Article 1 (Official Gazette of the Republic of Montenegro, No 61/04)

(1) Strike shall mean an interruption of work organized by employees for the purpose of protecting their professional and economic interests.

(2) Employees shall decide freely on their participation in strike.

Types of Strike
Article 2

(1) A strike may be organized within a legal entity or a part of the legal entity and within an entrepreneur (hereinafter: the employer) or within a branch and business activity, or as a general strike.

(2) A strike may also be organized as a strike of warning. A strike of warning may last one hour at the most.
Making a Decision on Strike
Article 3

(1) The decision to go on strike and strike of warning 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.

(2) The decision to go on strike within a branch and business activity, or the decision to go on general strike and strike of warning, shall be made by a competent body of the authorized trade union organization in the Republic of Montenegro (hereinafter: the Republic).

Elements of the Decision to Go on Strike
Article 4

The decision to go on strike shall determine: requests of the employees; time of commencing the strike; location of the strike and manner to run the strike, and the strike committee, which represents interests of employees, and runs the strike in their name.

Announcement of Strike
Article 5

(1) 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.

(2) The decision on going on strike of employees in a branch or business activity, or general strike shall be submitted to a competent body of the Chamber of Commerce of Montenegro (hereinafter: the Chamber of Commerce), the founder, and competent state body.

(3) If a strike is manifested by gathering of employees, the gathering location of participants in the strike cannot be outside the business – work premises, or outside the area of business premises of the employees who go on strike.

Initiating the Procedure of Conciliation, Mediation and Arbitration
Article 6

(1) A strike committee and employer, or a negotiating body determined by the employer shall be obliged, from the day of strike announcement and during the strike, to settle the dispute by a mutual agreement, or may present the dispute before a special body for conciliation that the parties to a dispute form by the mutual agreement.
(2) If a dispute is not resolved within 15 days from the day of strike commencement, the parties to the dispute may also invite a representative of a state body, representatives of the trade union if the trade union is not organizer of the strike, representatives of the Chamber of Commerce, as well as other experts, to take part in resolving a dispute or may present the dispute before a separate body for mediation formed by the parties to the dispute.

(3) In case the dispute is not resolved within 30 days from the strike commencement, the parties to the dispute shall be obliged to refer the dispute to arbitration, in accordance with the Labor Law.

**Obligations of a Strike Committee and Strike Participants**

**Article 7**

(1) A strike committee and employees who participate in a strike shall be obliged to organize and run a strike in the manner that shall not jeopardize safety of persons and property, and health of people, and which shall prevent infliction of immediate material damage and that shall enable continuation of work after the strike termination.

(2) 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.

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

**Termination of Strike**

**Article 8**

(1) A strike shall terminate by mutual agreement of the parties to a dispute or by a decision made by the body or employees who made a decision on going on strike.

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

**Strike in Specific Activities**

**Article 9**

(1) In case of activities of public interest or in the activity whose interruption of work, due to the nature of work, might jeopardize life and health of people or cause large-scale damage, employees’ right to strike can be exercised if the specific conditions determined by this Law are also met.
(2) The activity, under paragraph 1 of this Article, shall mean the activity carried out by an employer in the area of: electrical power industry, water resource management, transportation, postal services, information (radio and television), communal activities (water production and supply, garbage collection, production, distribution and supply of energy sources, etc.), fire protection, production of basic food products, health and veterinary care, education, culture, social care of children, and social welfare.

(3) Activities of public interest, under this Law, shall also mean the activities of special importance for defense and safety of the Republic, in accordance with law, as well as the activities necessary for execution of obligations determined by international agreements, as well as the activities whose interruption of work, due to the nature of work, under this Law, might jeopardize life and health of people or cause large-scale damage.

(4) If a strike in the activities referred to in paragraphs 2 and 3 of this Article is organized in a division of the employer, the obligation to meet also the special conditions with respect to exercising the employees’ right to strike, shall be applied only to that organizational division.

**Minimum Work Process**

**Article 10 (Official Gazette of the Republic of Montenegro, No 71/05)**

(1) Employees who perform the activity referred to in Article 9 of this Law may commence the strike, if the minimum work process is enabled that provides for security of people and property or is an indispensable prerequisite for citizens’ lives and work or work of other employer or legal entity or entrepreneur that performs economic or another activity or is a service provider.

(2) Minimum work process, under paragraph 1 of this Article, shall be determined depending on the nature of activity, degree of endangering lives and health of people and other circumstances important for satisfying the needs of citizens, employers and other entities (season, tourism season, school year, and other).

(3) Minimum work process and the manner of providing it in accordance with the criteria referred to in paragraph 2 of this Article shall be determined by the founder or employer.

(4) When determining the minimum work process, under paragraph 2 of this Article, the founder or employer shall be obliged to obtain an opinion of the competent body of the authorized trade union organization or more than half of the employees of the employer, in order for the agreement to be achieved.

(5) Director or executive director and strike committee shall determine employees who are obliged to work during a strike, for the purpose of providing the minimum work process, no later than five days prior to the strike commencement.
Article 10a (Official Gazette of the Republic of Montenegro, No 71/05)

(1) If an act on minimum work process and the manner of providing it is not adopted, under Article 10 of this Law, the minimum work process and the manner of providing it shall be determined by the act of founder, or director or executive director of the employer.

Strike Announcement
Article 11

In case of the activities referred to in Article 9 of this Law, a strike shall be announced to the employer, founder, competent state body or competent local self-government body, no later than 10 days prior to the strike commencement, by submitting the decision on going on strike and the statement regarding the manner of providing the minimum work process in accordance with Article 10, paragraph 1 of this Law.

Initiating the Procedure of Conciliation, Mediation and Arbitration
Article 12

(1) In case of the activities referred to in Article 9 of this Law, the parties to a dispute shall be obliged, no later than five days from arising of the dispute or announcing the strike, to try to resolve the dispute by mutual agreement, or to present the dispute before a special body for conciliation formed by the parties to the dispute by mutual agreement.

(2) If the dispute is not resolved within five days from the strike announcement, the parties to the dispute shall be obliged to involve also, in the dispute, representatives who are submitted the decision on going on strike, under Article 11 of this Law, or other experts and representatives of employees and employer, or to present the dispute before a separate body for mediation.

(3) In case the dispute is not resolved by the day set for the strike commencement, the parties to the dispute shall be obliged to present the dispute to arbitration, in accordance with the Labor Law.

Cooperation with the Employer and Execution of its Instructions
Article 13

(1) A strike committee shall be obliged to cooperate with the employer during a strike, for the purpose of ensuring the minimum work process referred to in Article 10 of this Law.

(2) Employees, who perform the activities referred to in Article 10, paragraph 4 of this Law shall be obliged to execute the employer’s instructions during a strike.
Protection of Employees’ Rights
Article 14

(1) Organization of a strike or participation in a strike under the conditions set 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 the employee, for removing the employee from work and cannot have, as a consequence, termination of employee’s employment.

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

(3) An employee referred to in paragraph 2 of this Article, who is obliged to work during a strike, for the purpose of ensuring minimum work process, under Article 10 of this Law, shall be entitled to wage in proportion to the time spent at work.

(4) 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.

(5) Strike organizers or participants in a strike not organized pursuant to this Law shall not enjoy the protection determined in paragraphs 1, 3 and 4 of this Article.

Obligations of the Employer
Article 15

(1) During a strike organized under the conditions set by this Law, an employer cannot employ new persons who would replace the strike participants, unless the following is jeopardized: safety of persons and property under Article 7, paragraph 1 of this Law, maintenance of the minimum work process that ensures the security of property and persons, as well as fulfillment of international obligations under Articles 9 and 10 of this Law.

(2) An employer cannot prevent the employees from organizing and participating in a strike, and use threats and coercion for ending a strike, and 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 16

(1) Employment shall be terminated for an employee in a state body and professional member of the police force, when it is determined that he/she organized a strike or participated in a strike.

(2) 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.

(3) The employee in the activities referred to in Article 9 of this Law, who refuses to execute employer’s order issued for the purpose of ensuring the minimum work process, shall commit a more severe violation of work duty that the measure of termination of employment is imposed on.

**Picket Duty**
**Article 17**

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

(2) A decision on establishing strikers’ picket duty shall be submitted to the entities determined in Article 5, or Article 11 of this Law, within the deadline for submitting the decision on going on strike, as its integral part or as a separate act during the strike.

(3) 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.

(4) 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.

**Authorizations of the State Body**
**Article 18**

A competent state body shall be obliged to undertake necessary measures envisaged by a separate law, if it estimates that, due to violation of Article 7, paragraph 1, and Articles 9 and 10 of this Law, immediate danger or extremely severe consequences for life and health of people or their safety and safety of property, or some other irreparable harmful consequences in exercising the public interest, may occur.

**Inspection Supervision**
**Article 19**

(1) The Ministry in charge of labor affairs, through the labor inspection, shall perform inspection supervision over the application of this Law.
(2) In performing inspection supervision, regulations on inspection supervision shall be applied, unless otherwise determined by provisions of this Law.

Article 20

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

Article 21

A labor inspector shall deliver, or submit the minutes on the performed inspection examination and activities to the employer and strike committee, or to the trade union.

Article 22

(1) If a labor inspector determines that employer’s act or activity violated a law or another regulation, he/she shall be authorized, in addition to the obligations and authorizations determined by law, until a valid decision of the court, to postpone, in the form of a decision, the execution of the employer’s decision on termination of employment, or removal from the work of an employee, strike organizer or strike participant.

(2) The decision referred to in paragraph 1 of this Article shall be submitted to the employer, strike committee, or trade union and employee.

Penalties for Offences

Article 23 (Official Gazette of the Republic of Montenegro, No 71/05)

(1) A pecuniary fine in the amount from 50 fold to 200 fold of the minimum wage in the Republic shall be imposed for an offence on the employer with the status of a legal entity and entrepreneur, if:

1) It does not participate in the procedure of conciliation or arbitration, within the deadline determined by this Law, or mediation procedure (Article 6, paragraphs 1 and 3, and Article 12);

2) It does not adopt an act on minimum work process and manner of providing it (Article 10);

3) It does not ensure the minimum work process determined by the act referred to in Article 10 and Article 10a of this Law;

4) It initiates the procedure for determining disciplinary and material liability, temporarily 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 14, paragraph 1);
5) During the strike, organized under the conditions set by this Law, employs new persons who would replace strike participants, unless otherwise envisaged by this Law (Article 15, paragraph 1);
6) It prevents employees from participating in a strike, or applies threats and coercive measures to terminate a strike, or offers higher wage or other more favorable work conditions for employees who do not participate in a strike (Article 15, paragraph 2);
7) It does not enable a labor inspector to conduct supervision, and it does not provide him with the access to data and documentation necessary to perform inspection supervision (Article 20).

(2) A pecuniary fine in the amount from 10 fold to 20 fold of the minimum wage in the Republic shall be imposed for the offence referred to in paragraph 1 of this Article also on a responsible person of the employer.

Article 24

(1) A pecuniary fine in the amount of 10 fold to 200 fold of the minimum wage in the Republic shall be imposed for an offence on the trade union, if:
1) It makes a decision on going on strike contrary to Article 3 of this Law;
2) The decision on going on strike does not contain the elements set by the Law (Article 4);
3) It does not announce the strike in the activities referred to in Article 9 of this Law within the deadline and in the manner prescribed by Article 11 of this Law.

(2) A pecuniary fine in the amount of 10 fold to 20 fold of the minimum wage in the Republic shall be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the trade union.

Article 25

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum wage in the Republic 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/she:
1) Makes a decision on going on strike contrary to Article 3 of this Law;
2) Decision on going on strike does not contain the elements set by the Law, or if it has not been submitted to the competent body pursuant to this Law (Articles 4 and 5);
3) Does not announce the strike in activities referred to in Article 9 of this Law within the deadline and in the manner prescribed by Article 11 of this Law;
4) Does not participate in the procedure of conciliation or arbitration within the deadline determined by this Law, or in the mediation procedure (Article 6, paragraphs 1 and 2, and Article 12);
5) Organizes or runs a strike in the manner that jeopardizes safety of persons and property, and health of people, causes immediate material damage, and prevents the continuation of work upon the strike termination (Article 7, paragraph 1);
6) Prevents employees who do not participate in a strike from working (Article 7, paragraph 3);
7) During a strike, refuses to cooperate with the employer for the purpose of ensuring minimum work process in the activities envisaged by this Law, or refuses to execute employer’s orders (Article 13);
8) Uses threat or physical coercion, sets barricades or blocks entrance to work to employees who want to work, or prevents the employer from performing its activity (Article 17, paragraph 3);
9) Does not enable a labor inspector to conduct supervision, and does not provide him/her with the access to data and documentation necessary for carrying out inspection supervision (Article 20).

**Transitional and Final Provision**

**Article 26 (Official Gazette of the Republic of Montenegro, No 71/05)**

(1) The act, referred to in Article 10 and Article 10a of this Law, shall be adopted within 30 days from the effective day of this Law.

(2) Until the adoption of the acts referred to in paragraph 1 of this Article, the regulations on the minimum work process, adopted on the basis of separate laws, shall be applied, unless they are contrary to provisions of this Law.

**Article 27 (Official Gazette of the Republic of Montenegro, No 71/05)**

This Law shall come into effect on the eighth day upon its publication in the “Official Gazette of the Republic of Montenegro”.

**Note of the Publisher**

The decision of the Constitutional Court of the Republic of Montenegro, No 96/03 and 115/03, dated the 8th September 2004 (Official Gazette of the Republic of Montenegro, No 61/04) determines that the provision of Article 1, paragraph 3, in the part “in the scope of rights and obligations arising from previously concluded collective agreements”, and the provision of Article 10, paragraph 2 of the Law on Strike (Official Gazette of the Republic of Montenegro, No 43/03) are not compliant with the Constitution of the Republic of Montenegro, and shall be annulled from the day of publication of the decision.