

► XXX European Labour Court Judges Meeting (2025)

Labour Court of Finland, Helsinki

24-26 September 2025

FINAL REPORT

Topic 1: Freedom of association and the right to collective bargaining



Labour Law Reform and Access to Labour Justice Team
Social dialogue, Labour relations and Governance of Work Branch
ILO, Geneva

Introduction

The European Labour Court Judges Meetings

Labour disputes—both individual and collective—are an inevitable feature of the world of work. Efficient and accessible labour dispute prevention and resolution systems are essential to strengthening harmonious industrial relations and ensuring access to labour justice for all. The judiciary is central to resolving labour disputes, enforcing labour laws and implementing international labour standards. While judicial systems vary in structure and procedure, many countries have established specialized labour courts or industrial tribunals to address the unique nature of labour and employment conflicts.

The ILO supports the professional development of labour court judges and staff through training, capacity building, institutional strengthening, and by fostering networks and partnerships. It also facilitates the organization of annual meetings of European Labour Court Judges to discuss shared concerns and examine developments in labour law through key judicial decisions.

Information on the judges' meetings is available [here](#).

Disclaimer: The responsibility for opinions expressed in this report rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Freedom of association and the right to collective bargaining

The principle of freedom of association is at the core of the ILO's values: it is enshrined in the ILO Constitution (1919), the ILO Declaration of Philadelphia (1944) and the ILO Declaration on Fundamental Principles and Rights at Work (1998). It is also a right proclaimed in the Universal Declaration of Human Rights (1948). The right to organize and form employers' and workers' organizations is the prerequisite for sound collective bargaining and social dialogue. Nevertheless, there continue to be challenges in applying these principles in many countries. In some countries, certain categories of workers (for example public servants, seafarers, workers in export processing zones) are denied the right of association, workers' and employers' organizations are illegally suspended or subject to acts of interference, and in some extreme cases trade unionists are arrested or killed.

ILO standards, in conjunction with the work of the Committee on Freedom of Association and the other ILO supervisory mechanisms, contribute to resolving these difficulties and ensuring that this fundamental human right is respected the world over.¹

¹ This introduction is excerpted from:

Rules of the game: An introduction to the standards-related work of the International Labour Organization, International Labour Office, Geneva, 2019, pp. 33-34.

Relevant ILO instruments

- [Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)

This fundamental Convention sets forth the right of workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers.

- [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#)

This fundamental Convention provides that workers shall enjoy adequate protection against acts of anti-union discrimination, including the requirement that a worker not join a union or relinquish trade union membership for employment, or the dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organizations under the domination of employers or employers' organizations, or the support of workers' organizations by financial or other means with the object of placing such organizations under the control of employers or employers' organizations. The Convention also enshrines the right to collective bargaining.

- [Workers' Representatives Convention, 1971 \(No. 135\)](#)

Workers' representatives in an undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements. Facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

- [Rural Workers' Organisations Convention, 1975 \(No. 141\)](#)

All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression. National policy shall facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of these workers in economic and social development.

- [Labour Relations \(Public Service\) Convention, 1978 \(No. 151\)](#)

Public employees as defined by the Convention shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, and their organizations shall enjoy complete independence from public authorities, as well as adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

This discussion aims to address the challenges, trends and developments relating to freedom of association and the right to collective bargaining at a national level. It will focus on relevant legal provisions and judicial decisions that have significantly impacted this area.

Contents

AUSTRIA	6
BELGIUM	10
FINLAND	15
GERMANY	24
HUNGARY	32
IRELAND	47
ISRAEL	52
NORWAY	59
SLOVENIA	63
SWEDEN	70

► AUSTRIA

Respondent: Gerhard Kuras, Supreme Court Judge

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: No, but there are different levels of collective bargaining. Wages and remunerations of public servants, judges.... are not determined by tariffs but by statutes bargained by the government and trade union.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: The regulations governing the admission of employer and employee associations to collective bargaining are set out in the Labor Constitution Act.

Section 4 of this Act reads as follows:

(1) Legal interest groups representing employers and employees who are directly or indirectly responsible for working to regulate working conditions and whose decision-making in representing the interests of employers or employees vis-à-vis the other side is independent are eligible to negotiate collective agreements.

(2) Professional associations of employers and employees based on voluntary membership are eligible to negotiate collective agreements if they

1. according to their statutes, have the task of regulating working conditions within their sphere of activity;

2. are active in a larger professional and geographical sphere of activity in pursuit of their objectives of representing the interests of employers or employees;
3. have significant economic importance due to the number of their members and the scope of their activities;
4. are independent in representing the interests of employers or employees vis-à-vis the other side.

The Federal Conciliation Office decides on admission upon application by the respective association. Its decisions are reviewed by the administrative courts. The labor courts are responsible for disputes between associations, but also between individual employers and employees, for example regarding claims related to strikes. In addition to professional judges, lay judges from the circle of employers and employees also participate in the decision-making process.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: Two very old laws deal directly with such issues. The so-called Coalition Act stipulates that agreements between employers ... which aim to impose wage reductions or generally less favorable working conditions on workers by means of closing down the business or dismissing workers ... as well as all agreements to support those who adhere to the aforementioned agreements or to disadvantage those who withdraw from them, have no legal effect (§ 2).

The Anti-Terrorism Act punishes anyone who, with the intention of ensuring that only members of a particular trade union or only workers who do not belong to a trade union are employed in a company, or with the intention of preventing persons who do not belong to a trade union or who belong to a particular trade union or other voluntary association from being employed in a company, prevents employers or employees from exercising their free decision to give or take work by means of intimidation or violence. Anyone who uses intimidation or violence to coerce an employee to join or leave a trade union or other voluntary association is also punishable (§ 4).

However, there are no practical problems or cases in this context.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: There are no new trends

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: There are no new trends.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: There are no new trends.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: No

► BELGIUM

Respondent: Koen Mestdagh, Honorary section president, Court of Cassation

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The freedom of association is as a fundamental right enshrined in the Belgian Constitution [article 27]. It is impossible to exclude any category of citizens from the scope of freedom of association.

Traditionally collective bargaining with the view to the regulation of terms and conditions of employment by means of collective agreements is a machinery proper to the private sector. The 5 December 1968 Act concerning the collective labour agreements and the joint industrial committees doesn't apply to workers in the service of the Federal State, the Regions and Communities, the provinces, the cities and the public institutions or companies installed by these public authorities (with some exceptions) [article 2, § 3].

However, a machinery to organise collective bargaining and concertation in the public sector was set up by the 19 December 1974 Act to regulate the relations between the Government and the trade unions of its personnel. The bargaining and concertation can only result in a protocol stating the points of agreement or disagreement and not in a binding collective agreement. The regulation set up by the 19 December 1974 Act doesn't apply to:

- the personnel of the House of Representatives and the Senate, the members and personnel of the Court of Audit, the members, clerks and personnel of the Permanent Committees supervising the police service and the intelligence services, the federal ombudsmen;
- the judges, public prosecutors and court clerks of the judiciary;
- the office bearers of the State Council (= supreme administrative court);

- the members of the armed forces;
- the members of the teaching staff of the universities;
- the personnel of the external services of the security of the State;
- the personnel responsible for the security of the State with respect to nuclear energy;
- the personnel of the police service.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Which court is responsible for dealing with disputes relating to freedom of association depends on the legal norm at stake and how and when the dispute rises.

If for instance the Federal or a Regional Parliament would pass a law that is problematic with respect to the freedom of association, any interested party can file a petition to the Constitutional Court (hereafter: CC) to annul the concerning articles of that act, erga omnes, within 6 months of its publication in the State Journal [article 1 to 3 of the Special Act of 6 January 1989 on the Constitutional Court (hereafter: SACC)]. If the problem rises later in the context of a court case – if it concerns the freedom of association of workers/trade unions it will be a labour court that will have to deal with the case – the court is in principle obliged to ask a preliminary question to the CC [article 26 SACC]. If the CC finds that the provisions of the act are violating article 27 of our Constitution, the judges dealing with the case have to conform to the ruling of the CC [article 28 SACC]. Moreover, the judgment opens for any interested party a new term of 6 month, starting the day after the publication of the CC's judgment in the State Journal, to file a petition to the CC to annul the provisions found unconstitutional, erga omnes [article 4 SACC].

If the disputed provisions are passed by a lower law maker, e.g. by Royal or Ministerial Decree, any interested party can file a petition to the State Council to annul these provisions, erga omnes, within 60 days of the official announcement of the provisions [article 14 of the Acts on the State Council, coordinated on 12 January 1973 – article 6 of the Regents decree of 23 August 1948 to regulate the proceedings in the section Administrative Law jurisdiction of the State Council]. If the problem rises later in the context of a court case, the judges dealing with the case will have to assess themselves whether the provisions are in accordance with the freedom of association. If the judges find the provisions unconstitutional, they have to refuse to apply these provisions [article 159 of the Constitution].

If the denounced infringement on the freedom of association is not the consequence of a legal norm but is caused by a policy of an employer or employers association, the dispute will be dealt with by the labour court, most likely in the context of a discrimination case in which an order to stop the infringement is requested.

Such claims can be brought by individual workers. Since in Belgium the trade unions voluntary don't have legal personality, they can only bring a case in matters where the law expressly allows them to, but the CC for instance accepts that a trade union leader has a personal interest to request the annulment of a provision that disadvantages his trade union.

There aren't specific rules regarding court composition or procedural requirements for these cases.

The right to collective bargaining can in reality only be exercised by trade unions that are recognised legally representative. Since 2010 the criteria for legal representativeness are written down in the 1952 Act instituting the National Labour Council. Before 2010 in the end it was the government that decided which trade unions were representative.

The labour courts have no responsibility in dealing with disputes relating to the right to collective bargaining. If such a dispute would rise, it will have to be solved politically.

To my knowledge no issues have been raised recently regarding the freedom of association or the right to collective bargaining, nor are there recent developments.

3. Protection against discrimination and interference – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Protection against acts of interference in the establishment, functioning or administration in workers' and employers' organisations is not regulated.

Since the trade unions in Belgium don't adopt legal personality, interference by employers' organisations or by each other's agents or members in their establishment, functioning or administration is as good as impossible. The only way to interfere in their functioning is by secretive infiltration, which is sometimes attempted by both the ultra left and ultra right political parties.

Every now and then, a MP proposes to oblige the trade unions to adopt legal personality, but these attempts were all unsuccessful until now.

It likewise is hard to imagine how trade unions or an employers' organisation could interfere in the functioning of another employer's organisation.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: No, there are neither old nor new trends or developments relating to these issues.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Answer: No, there are no new trends or developments relating to these issues.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Answer: No, there are no new trends or developments relating to these issues.

7. **Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Answer: No, there are no new developments in this area.

► FINLAND

Respondent: Outi Anttila, Chairperson, Labour Court

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: Section 13 of the Constitution of Finland states: "Everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organize in order to look after other interests is likewise guaranteed."

The right to collective bargaining – as well as the right to strike – is considered to enjoy protection under Section 13 of the Constitution.

No category of workers or employers is excluded from the scope of freedom of association or the right to collective bargaining. However, civil servants' right to strike is restricted.

For example, food couriers have established their own union under the Service Union United PAM (a trade union for people working in private service sectors). PAM and Wolt have been negotiating the working conditions of food delivery workers since December 2023. The problem has been that Wolt doesn't want anything that even remotely resembles an employment relationship, and PAM have a different starting point. In its decision of 22 May 2025, the Supreme Administrative Court held that although the work of couriers had many characteristics that were generally associated with independent entrepreneurs, all the characteristics of an employment relationship pursuant to Chapter 1, Section 1, Subsection 1 of the Employment Contracts Act were met in the case. The food couriers were therefore to be considered to be carrying out their work in an employment relationship.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining?

Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: In principle, the competent court is the general court (district courts - courts of appeal - supreme court), if the claim is based on the Constitution (Section 13) or other legislative act (other than Collective Agreements Acts). Individual workers are entitled to bring such claims. There are not any specific rules regarding court composition or procedural requirements for these cases.

However, the labour court has jurisdiction in disputes concerning collective agreements, e.g., the shop steward agreements (which may be relevant in this regard), or industrial action. The Labour Court also handles claims based on the Collective Agreements Acts. The acts, among other things, define a collective agreement and an employee/employer association, and stipulates how a collective agreement should be drawn up, what the consequences of violating it are, as well as the obligation to maintain industrial peace and the consequences of violating it. Employees' and employers' organizations are entitled to bring such claims.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: According to section 6 of the Constitution no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person. These "other reasons" also include participation in the activities of an association.

According to section 8 of the Non-discrimination Act no one may be discriminated against on the basis of age, [- -] or other personal characteristics. According to the preparatory works of the Act, different treatment of employees based on trade union activities constitute discrimination unless the treatment is justified as stipulated in the Act. The prohibition against discrimination based on trade union activities protects both positive and negative freedom of

association. Employees must not be unjustly placed in different positions based on either their membership or non-membership in a union. For example, participation in a lawful industrial action is not a permissible reason for different treatment in working life. Nor has participation in an industrial action violating the obligation to maintain labor peace, for which the trade union is responsible, been considered a valid reason for differential treatment of employees. The prohibition against discrimination based on trade union activities practically protects especially trade union activists.

Participation in an unlawful industrial action, for which a trade union is responsible, has not been considered an acceptable ground for differential treatment of employees. In the Supreme Court case **KKO 2016:12**, the issue under assessment was whether the differential treatment of employees is discriminatory when the industrial action was *not* organized by a trade union. According to the performance-based bonus system used by the company, participating in an unlawful industrial action disqualified an employee from receiving the bonus for the period affected by the action. In this case, the strike was not organized by a trade union, which, however, had neglected its duty of supervision. The Supreme Court held that the industrial actions in question were acts of the employees themselves and not connected to the freedom of association protected by law, including the right to strike. Therefore, the company had not acted in a discriminatory manner.

In the Supreme Court case **KKO 2019:35**, the collective agreement had expired, and the trade union planned to use industrial action to accelerate negotiations. The company prepared for the threat of industrial action by hiring temporary agency workers. In response, the trade union imposed a ban on training, meaning that agency workers were not to be trained or introduced to their duties. An employee involved in the industrial action refused, on two separate days, to carry out training duties assigned by the employer due to the union's training ban. However, the employee stated they were available for regular sorting and delivery tasks. The employer sent the employee home on both days and did not pay wages for the remaining hours. In their claim, the employee demanded full pay for the hours in question as well as compensation under the Non-Discrimination Act for discrimination based on trade union activity.

The majority of the Supreme Court held that, after the employee refused the assigned training duties due to the industrial action, the employer was not obligated to accept partial performance limited to sorting and delivery tasks. Since the work stoppage was not caused by the employer but by the industrial action, the employer was not obligated to pay wages for the hours not worked. The Court ruled that the employer had not discriminated against the employee due to participation in trade union activities.

A minority of the Court considered that the employer's actions did constitute discrimination based on trade union activity.

The case was appealed to the **European Court of Human Rights (Hellgren v. Finland, no. 52977/19)**, which issued its judgment on 17 December 2024. The Court emphasized that states have a wide margin of appreciation in how they safeguard the freedom of association.

It gave weight to the fact that, in general, the freedom of association is well protected in Finland. The Court held that the Finnish Supreme Court had struck a fair balance between the applicant's trade union rights and the employer's right to manage and direct work. There was no violation of Article 11 of the European Convention on Human Rights. Regarding the prohibition of discrimination, the Court found no grounds to assess the matter differently than the Supreme Court, whose decision was based on national legislation concerning the employer's right of direction.

In the Supreme Court case **KKO 2024:47**, the plaintiffs were members of a trade union that had declared an overtime ban for a certain period. During the overtime ban, the employer offered some employees the opportunity to perform overtime work during the weekend as piecework. The compensation included not only an estimated hourly wage and overtime pay but also Sunday work compensation and weekly rest compensation, even though no work was performed on a Sunday. The Supreme Court ruled that the employer had granted an additional benefit to those employees who agreed to work overtime during the union-declared overtime ban. By doing so, the employer had discriminated against the plaintiffs based on their trade union activity and was therefore obligated to pay them compensation under the Non-Discrimination Act.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: Many working life reforms have been made in Finland during this government term (2023–2027). Employee's organizations have widely criticized those reforms, claiming that they threaten freedom of association and right to collective bargaining.

One of the biggest reforms has concerned **industrial peace legislation**. The amendments, which entered into force on 18 May 2024, relate to three areas:

1. The level of compensatory fines, imposed as a sanction for violation of the industrial peace obligation, has been raised, setting the maximum amount at EUR 150,000 and the minimum amount at EUR 10,000. Previously the fines were usually only a few thousand euros at most. However, the level of compensatory fine can be reduced below the minimum amount or waived completely for a special reason. According to

the preparatory works of the new legislation (gov.proposal 12/2024), “regarding the increase in the maximum amount of compensation fines, care must be taken to ensure that the amendments do not lead to unreasonable outcomes. The requirement also stems from Finland's international commitments and, in particular, from the restrictions set in the ILO convention monitoring practice. Sanctions imposed for violating the obligation to maintain industrial peace must not be unreasonable and must not lead to the termination of the associations' activities.”

The Labour Court will issue its first ruling under the new legislation in September 2025.

2. Limiting disproportionate solidarity action: When the obligation to maintain industrial peace is in force, only such solidarity action that does not have disproportionately harmful consequences for third parties are allowed. There will be no right to solidarity action or the action will have to be organized in a more moderate manner, if it causes significant harm to a third party employer that is the target of the solidarity action. There is not yet any case law concerning the new legislation.
3. Limiting the length of political industrial action: The maximum duration of political work stoppages will be 24 hours and that of other industrial action will be two weeks (previously all were allowed for an unlimited period of time). Any political industrial action taken previously cannot be repeated within one year of the start of the original industrial action to achieve the same objective.

The reform has not restricted industrial action aimed at improving working conditions in one's own collective agreement.

Previously, no provisions have existed concerning **essential work** performed by employees in an employment relationship **during industrial action**. The employee association participating in the industrial action has decided on essential work and, if necessary, negotiations on essential work have been conducted between the employees' and employer's sides. Employee associations have had varying procedures for deciding on essential work.

A statutory duty of care has now been imposed on associations of employees. This means that the associations have now a statutory duty to ensure that industrial action does not directly, concretely and seriously endanger e.g. life, health, employer's property or the environment and the functions necessary to safeguard them. The duty of care requires that certain tasks or functions are completely excluded from industrial action or, alternatively, a sufficient amount of essential work is performed. In the event of disagreement, the parties have the obligation to negotiate on essential work. If necessary, the employer may apply to the court (general court) to prohibit industrial action in cases where the employee association fails to perform essential work as required by law. The amendments entered into force on 16 June 2025 (Gov. prop. 14/2025).

Another major reform has concerned **local bargaining** (amendments entered into force on 1 January 2025, Gov. prop. 85/2024). There is no universal definition of local bargaining, but in Gov. prop. the notion has been specified as follows:

1. Employer-specific collective agreements: The employer and the national employee association conclude a collective agreement on the terms of employment observed in the employment relationship.
2. Local agreements based on a national collective agreement: Under a collective agreement concluded by employer and employee associations, employers can agree on specific matters with a personnel representative or the personnel at the workplace level. Local bargaining can involve
 - a) Matters that are not specified in the law and that are only set out in collective agreements. Such matters include the amount of pay or holiday bonuses.
 - b) Matters on which general provisions are set out in the law, but deviations from the general rule can be made in national collective agreements. Parties to a collective agreement can authorise the parties in the workplace to agree on deviations. With few exceptions, the local bargaining described above is only open to organised employers (employers that are members of employer associations).
3. Local agreements based on the law: There are a few matters upon which workplace-level agreements can be concluded under the law. For example, under the Working Hours Act, an agreement on the introduction of a working hours account can be concluded at the local level.

The amendments concern the two first definitions.

Previously, it has been possible to derogate from many provisions of labour legislation by means of a collective agreement between national employer and employee associations. In future, this way of agreeing is also possible for employer-specific collective agreements. Moreover, the party representing the employees' side could be a member association of a national employee association.

If there is a generally applicable collective agreement for the sector, a non-organized employer must comply with its provisions at the very least. Generally applicable collective agreements may contain provisions that enable local collective bargaining. However, the Employment Contracts Act, the Working Hours Act, the Annual Holidays Act and the Study Leave Act previously contained provisions stipulating that those provisions of a collective agreement derogating from the Act and requiring local agreement cannot be applied to non-organized workplaces. According to the Government this has created inequalities between organized and non-organized workplaces. Provisions enabling local collective bargaining may now also be applied in non-organized workplaces. In other words, bans on local bargaining in non-organized companies that comply with a generally applicable collective agreement have been removed from labour legislation.

If there is no shop steward at the workplace, the local agreement can be concluded with the elected representative. Doubts have been raised whether the representative of employees has the necessary skills and abilities to conclude a local agreement without the support of the union. Trade unions also fear that the reform will reduce employers' willingness to organize and thus undermine the contract-based system.

Fictitious agreements (a yellow collective agreement) in which a contracting party on the employee side does not genuinely represent employees (a yellow trade union) are not permitted under the Collective Agreements Act. However, a clarification has been made to the Collective Agreements Act (Section 1(2)), which considers the actual goals and activities of an employee association, when assessing its purpose, instead of merely its formal purpose. The purpose of the amendment was to ensure that only agreements in which the contracting parties genuinely represent the employer and employee sides are considered collective agreements.

In the case of organised companies, the unions monitor compliance with collective agreements and local agreements concluded under them. Any disputes will be handled by the Labour Court.

In the case of non-organised companies, the occupational safety and health authority monitors that the local agreement remains within the framework permitted by law and collective agreements. Any disputes will be handled by a general court.

In reality, the division of jurisdiction between different courts is very unclear.

5.Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: See the answer above (Question nr 4).

It should be added that, based on the established case law of the Labour Court, the freedom of contract of the social partners is obviously restricted by mandatory legislation. According to the Constitution Section 22, it is the duty of the public authorities (e.g. courts) to ensure the implementation of fundamental and human rights. There are examples in the Labour Court's

case law where the parties have agreed on, for example, discriminatory provisions, which obviously is not allowed. Nor may the provisions be applied in a discriminatory or otherwise unlawful manner.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: See the answer above (Question nr 4).

Furthermore, there has been carried out a reform on **the conciliation system** (the amendments entered into force on 1 January 2025, Gov. prop. 146/2024), which has affected the work of the National Conciliator, conciliators and conciliation boards. The social partners will still be able to conclude agreements with each other as before.

Amendments in the Act on Mediation in Labour Disputes obliges the conciliator to act in the conciliation procedure in a manner that will safeguard the overall benefit of the national economy so that wage formation will work as well as possible and the functioning of the labour market will not be compromised. Safeguarding the overall benefit of the national economy means that, in addition to the demands of the parties to the labour dispute, the conciliator should consider factors affecting the capacity of the national economy and Finland's competitiveness. The conciliator guides the parties to the labour dispute towards solutions that are balanced in terms of Finland's competitiveness and well-functioning wage formation and takes these factors into account in the conciliation process and also when submitting a settlement proposal.

According to the current view, attaching sufficient value to the pay adjustment decision of the initiator sector (usually an export sector that competes internationally and makes a pay adjustment decision first) will support the overall benefit of the national economy.

However, the employee's organizations have opposed the reform and pointed out that in Finland, public sector is dominated by women employees and export industry by men. Trade unions representing the female dominated branches have stated that it is clear that the change for mediation places a restriction to promote equal pay between men and women through collective bargaining agreements.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: -

► GERMANY

Respondent: Fabian Pulz, Federal Labour Court Judge

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: According to Article 9(3) of the Basic Law (hereinafter Grundgesetz), freedom of association applies to everyone and to all professions. This includes the right of employees to form trade unions and to engage in collective action, including industrial action. Conversely, the right of employers to form employers' associations is also protected.

1. Civil servants ("Beamte")

Restrictions apply to certain groups in the public service, in particular to so called "Beamte". "Beamte" have a special relationship of service and loyalty to the state that is regulated by law (Article 33(5) Grundgesetz). They are to be distinguished from public sector employees who work on the basis of a private employment contract. "Beamte" can be employed at federal, state and local government level. Civil servants who perform sovereign functions, such as police officers, are usually "Beamte". However, employees who do not perform sovereign functions can also be "Beamte", such as the majority of teachers at state schools.

In its ruling of 12 June 2018 (- 2 BvR 1738/12 -), the Federal Constitutional Court confirmed that the ban on strikes for "Beamte" is a traditional principle of the professional civil service within the meaning of Article 33(5) of the Grundgesetz. "Beamte" can organise themselves into trade unions, but unlike public sector employees who work on the basis of a private employment contract, they do not have the right to strike or traditional collective bargaining rights. Their pay and working conditions are regulated by law. Similar regulations apply to judges and soldiers. In its ruling of 14 December 2023 (- 59433/18 -), the European Court of Human Rights (ECHR) upheld the ban on strikes for teachers who are "Beamte". The general ban on strikes for "Beamte" does not violate Article 11 of the ECHR (freedom of association). The ECHR acknowledged that this ban does not render freedom of association substantively meaningless. "Beamte" could be organised in trade unions, the trade unions had a say in the

preparation of civil service regulations, and the enforceable principle of the duty to provide maintenance, which ensured remuneration appropriate to the office and was monitored by the Federal Constitutional Court, applied (see BVerfG 4 May 2020 – 2 BvL 6/17 -).

2. Managerial employees

Managerial employees who are classified as 'non-tariff employees' can join trade unions, but are generally not covered by collective agreements.

3. Agricultural workers and platform workers

There are no special regulations for agricultural workers. The same applies to platform workers, provided they are considered employees. According to the case law of the Federal Labour Court, this may be the case, for example, if a large number of small orders are continuously processed by users of an online platform ('crowd workers') (BAG 1 December 2020 – 9 AZR 102/20 -).

4. Church employees

Church employees are often subject to the so-called 'third way': according to this, commissions composed of equal numbers of representatives from the employers and the employees side determine the terms of employment contracts for church employees on the basis of special church laws. If no agreement can be reached, arbitration or mediation proceedings are initiated to replace industrial action. The final decision lies with a joint arbitration commission with one or two neutral arbitrators. Church employees can be members of a trade union, but strikes are not permitted as a means of industrial action. A trade union's constitutional complaint against the ban on strikes was invalid on formal grounds, so that a final clarification of whether the exclusion of the right to strike is constitutional is still pending (BVerfG 15 July 2015 - 2 BvR 2292/13 -).

2. **Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

1. Competent court

Disputes relating to freedom of association (Article 9(3) Grundgesetz) and the right to collective bargaining are generally dealt with by the labour courts (Section 2(1) and (2) of the Labour Court Act (hereinafter: Arbeitsgerichtsgesetz). The sequence of instances is as follows: labour court – regional labour court – Federal Labour Court. Employers or employers' associations relatively frequently attempt to have an imminent industrial dispute prohibited

by invoking the labour courts, for example because the strike is disproportionate or the strike objective is inadmissible. However, the hurdles for a court injunction against a strike are high. Due to their urgency, these disputes are dealt with in preliminary injunction proceedings, with the special feature that the regional labour courts are the courts of last instance – an appeal to the Federal Labour Court is not possible. This makes it possible to conduct the entire legal dispute in two instances within a few days; in extreme cases, the oral hearing at the labour court and the regional labour court can even take place on the same day. The Federal Labour Court can subsequently clarify whether an industrial action was lawful. If constitutional issues are at stake, the matter can be referred to the Federal Constitutional Court.

2. Who is entitled to bring such claims?

Trade unions have the right to sue under the decision-making procedure set out in the Arbeitsgerichtsgesetz when collective rights are at stake (e.g. determining the legality of industrial action). Employers and employers' associations also have the right to bring legal action. Individual employees who believe that their individual freedom of association or right to strike has been violated (e.g. disciplinary measures against civil servants, dismissals due to trade union activities) are also entitled to bring legal action.

3. Specific rules regarding court composition or procedural requirements

The labour courts, up to and including the Federal Labour Court, decide in their usual composition with one (in the case of the Federal Labour Court: three) professional judges and two honorary judges. The Federal Constitutional Court decides in its usual composition with three or eight professional judges without honorary judges. No special procedural rules apply.

4. Current issues and interesting developments

According to the newly revised Section 97 (2) Arbeitsgerichtsgesetz of 2014 it is not the labour court but the regional labour court that decides in the first instance whether a trade union is entitled to conclude collective agreements. The legal dispute can only be brought before the regional labour court as the court of fact and the Federal Labour Court as the court of appeal.

Under certain conditions, a collective agreement which, according to the law, applies directly and mandatorily only between union members and employers bound by collective agreements can be declared generally binding by the competent ministry upon joint application by the parties to the collective agreement. It then covers all employment relationships within its scope. According to the provision created in 2014 in Section 98 (2) Arbeitsgerichtsgesetz, the regional labour court, rather than the labour court, has jurisdiction in the first instance in legal disputes concerning the validity of the declaration of general applicability.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

1. Anti-union discrimination

Protection against discrimination on the grounds of union membership is enshrined in Article 9(3) Grundgesetz and is specified in ordinary in Section 612a of the Civil Code (hereinafter Bürgerliches Gesetzbuch) and Section 75 of the Works Constitution Act (hereinafter Betriebsverfassungsgesetz). According to established case law of the Federal Labour Court, employers may not impose disadvantages on employees who exercise their coalition rights.

The problem is whether employers are allowed to ask employees about their union membership. The Federal Labour Court has left open the question of whether asking about union membership generally and without exception constitutes an unlawful impairment of collective freedom of association – or whether and under what circumstances employers may, in exceptional cases, ask employees about their union membership. If an employer requires its employees to disclose their union membership during ongoing collective bargaining negotiations, this is in any case a measure directed against the freedom of union activity and is inadmissible (BAG 18 November 2014 – 1 AZR 257/13 -).

2. Interference in workers' and employers' organisations

There are no legal regulations that expressly prohibit interference in workers' and employers' organisations by the respective opponent. Nevertheless, the Federal Labour Court has established the requirement that the association must be 'independent of its opponents'. The necessary independence from opponents is lacking if dependence on the opponent is inherent and perpetuated in the structure of the employee association and the independent representation of interests by the collective bargaining party is seriously jeopardised by personnel interdependencies, organisational ties or substantial financial contributions (BAG 22 June 2021 – 1 ABR 28/20 -).

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The right to establish trade unions and employers' associations without previous authorisation, the right to draw up constitutions and rules and to elect representatives in full freedom and the Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes are taken for granted. They have not been the subject of any new trends or interesting developments in the recent past.

1. Establish new trade unions

With regard to the formation of new trade unions, it is relevant (but not new) that the Federal Labour Court has consistently ruled that a trade union only has the ability to conclude effective collective agreements if it has sufficient social power. It must be sufficiently assertive and organisationally capable vis-à-vis employers. The decisive factors are, in particular, the number of members and the degree of organisation within its own area of responsibility, as well as actual negotiating successes and efficient structures (BAG 26 June 2018 – 1 ABR 37/16 -). In practical terms, this case law can make it more difficult to establish new trade unions.

2. Non-interference by authorities/courts

In its ruling of 11 December 2024 (- 1 BvR 1109/21 -), the Federal Constitutional Court clarified that labour courts must apply only a limited standard of review when reviewing collective bargaining agreements on the basis of the fundamental rights enshrined in the Constitution (review only for arbitrariness). The collective bargaining autonomy under Article 9(3) Grundgesetz requires that the solutions negotiated by the collective bargaining parties be respected in principle and only reviewed for obvious violations of fundamental rights. In particular, the courts may not make any 'upward adjustments' by ordering higher surcharges in the event of violations of the general fundamental right to equal treatment. In doing so, the Federal Constitutional Court emphasised the power of the parties to collective agreements to shape the content of collective agreements and stressed the limits of judicial intervention in collective agreement provisions. The Federal Constitutional Court did not rule on whether an 'upward adjustment' is also excluded in areas governed by EU law, where, according to the case law of the European Court of Justice, an 'upward adjustment' may be necessary. The decision of the Federal Constitutional Court does not prohibit the review of

collective agreements on the basis of simple laws that are below the level of constitutional fundamental rights.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

There are some interesting developments in recent case law:

1. Flash mob as a labour dispute measure

A trade union had called on its members to load shopping trolleys with goods in a retail store and leave them at the checkout in order to disrupt operations. The Federal Labour Court clarified that even unconventional and creative means of industrial action are generally permitted, provided that they are used in the context of a collective bargaining dispute, do not violate criminal law and comply with the principle of proportionality (BAG 22 September 2009 – 1 AZR 972/08 -). The constitutional complaint against this ruling to the Federal Constitutional Court was unsuccessful (BVerfG 26 March 2014 – 1 BvR 3185/09 -).

2. Industrial action in a company car park

A trade union may address employees in the company car park of an Amazon logistics centre during a collective bargaining dispute and call on them to take industrial action. The employer's right of ownership (Art. 14 Grundgesetz) must take second place to the trade union's freedom of association, which is protected by Art. 9 (3) Grundgesetz, provided that the actions are peaceful, proportionate and aimed at achieving collective bargaining objectives (BAG 20 November 2018 – 1 AZR 189/17 -).

3. Strike-breaking bonus

The Federal Labour Court has ruled that an employer may pay a strike-breaking bonus for work actually performed during a lawful strike. Such a special payment does not constitute an unlawful disciplinary measure under Section 612a Bürgerliches Gesetzbuch as long as it exclusively rewards work performance and is not intended to disadvantage union members for participating in the strike. The Federal Labour Court has thus clarified that financial incentives to take up work during a strike are legally permissible as long as they remain proportionate and do not undermine the freedom of association under Article 9(3) Grundgesetz (BAG 14 August 2018 - 1 AZR 287/17 -).

4. Permissible strike objectives

The Federal Labour Court has also ruled that strikes are only lawful if they are aimed at concluding a collective agreement. Strike objectives that go beyond this (e.g. general political demands) are inadmissible. The court emphasised that industrial action must always serve the purpose of regulating working and economic conditions through collective agreements; other purposes exceed the scope of protection of Article 9(3) Grundgesetz (BAG 26 July 2016 - 1 AZR 160/14 -).

5. Differentiation clauses

Another focus of case law concerns the admissibility of differentiation clauses in collective agreements that grant certain advantages exclusively to union members. In principle, such clauses are not to be regarded as undue pressure on non-members, but rather as an expression of the collective bargaining autonomy of the coalitions. Advantages for members (e.g. a special payment of 535.00 Euro per year) may be permissible, while disadvantages or sanctions for union membership remain impermissible (Federal Labour Court, 18 March 2009 - 4 AZR 64/08 -).

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

In 2010, the Federal Labour Court abandoned the principle that only one collective agreement applied in an establishment (BAG 7 July 2010 - 4 AZR 549/08 -). Now that collective agreements from several trade unions could apply in one establishment, it was possible for an employer to be called upon by several trade unions to negotiate collective agreements for one establishment and to be subject to industrial action by more than one trade union. In 2015, the legislature responded with the Collective Bargaining Unity Act (hereinafter: Tarifeinheitsgesetz) in order to avoid excessively frequent industrial action. According to this act, if the areas of application of several collective agreements of different trade unions overlap, only the collective agreement of the trade union with the most members in the establishment applies. The Federal Constitutional Court has declared the Tarifeinheitsgesetz to be essentially compatible with the freedom of association under Article 9(3) Grundgesetz (BVerfG 11 July 2017 - 1 BvR 1571/15 -).

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: No other interesting questions relating to freedom of association and the right to collective bargaining are apparent.

► HUNGARY

Respondents: Kinga Skorniyk, Veronika Guba, Mária Kulicity

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

- In Hungary, the Fundamental Law, which entered into force in 2011, guarantees the freedom of association in Article VIII, declaring that everyone has the right to establish and join organizations. The text of the Fundamental Law explicitly states that trade unions and other interest representation organizations may be freely established and may operate on the basis of the right of association. According to Article XVII of the Fundamental Law, employees, employers, and their organizations have the right to engage in collective bargaining, to conclude agreements, and to take collective action – including the right to strike – in order to protect their interests.
- In line with this, Section 230 of the Labour Code (Act I of 2012-hereinafter LC) stipulates that the law regulates the relationships between trade unions, works councils, and employers or their representative organizations with a view to protecting employees' social and economic interests and preserving labour peace. Within this framework, the law ensures the freedom of organization, the participation of employees in shaping working conditions, sets the rules for collective bargaining, and establishes procedures aimed at the prevention and resolution of labour disputes.
- The Labour Code also defines the scope of rights enjoyed by employees and trade unions. It provides that employees or employers have the right – under conditions prescribed by law – to form interest representation organizations jointly with others or to join an organization of their choice, based solely on the rules of the given organization, or to remain independent of such organizations. Interest representation organizations are entitled to form or join alliances, including international federations.
- Employees have the right to establish trade unions at the workplace. A trade union is defined as any organization of employees whose primary purpose is to promote and protect the interests of employees in relation to their employment. Trade unions may

establish bodies within the employer's organization and may involve their members in their operations. The most important right of a trade union is to conclude a collective agreement with the employer. In addition, trade unions are entitled to:

- inform employees about matters related to labour relations or their employment;
 - request information from the employer concerning employees' economic and social interests related to employment;
 - provide their opinion to the employer on decisions or plans thereof, and initiate consultations in this regard;
 - represent employees in connection with their material, social, working, and living conditions before the employer or its representative organization.
- Furthermore, trade unions may represent their members – based on a mandate – before courts, authorities, and other bodies for the purpose of protecting their economic and social interests.
 - In Hungary, there is no general restriction preventing members of any profession from establishing or participating in interest representation organizations or trade unions. However, in certain professions, the organization of a strike is prohibited. Pursuant to Act VII of 1989 on Strike, strikes are not permitted within the judiciary, the Hungarian Defence Forces, law enforcement and policing bodies, and civilian national security services.
 - Within public administration bodies, the right to strike may be exercised under specific rules agreed upon between the Government and the concerned trade unions. However, employees in customs enforcement roles within the National Tax and Customs Administration are not entitled to exercise the right to strike.
 - As for members of the professional staff of law enforcement agencies, Act XLII of 2015 on the service relationship of law enforcement personnel provides that interest representation bodies may freely operate and exercise their rights within the framework of the law. However, they may not organize strikes, and their activities – including any conduct that may undermine the public's trust essential for the functioning of the law enforcement body – must not obstruct the lawful and proper operation of the agency or the execution of orders and instructions by its staff.
 - The right to strike is also limited for employees of certain other employers. For employers providing services that are essential to the general public – particularly in public transport, telecommunications, and the supply of electricity, water, gas, and other energy – the right to strike may only be exercised in a manner that does not hinder the provision of minimum service levels. The extent and conditions of such minimum service may be defined by law. In the absence of such legal regulation, the parties must agree on the terms of minimum service during the conciliation process preceding the strike.

- Relevant Constitutional Court jurisprudence:
 - Decision No. 33/2012 (VII.17.) AB: The Constitutional Court held that restrictions on trade union rights are only constitutional if they are proportionate and necessary.
 - Decision No. 673/B/1990 AB: The Court emphasized that protecting citizens' fundamental rights and ensuring the effective operation of the justice system requires far-reaching limitations – effectively the abolition – of the right to strike for members of the judiciary, as without this, the protection of other constitutional rights could not be guaranteed.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

- In Hungary, labour law disputes – including collective labour disputes – fall under the jurisdiction of the courts. Since March 2020, first instance proceedings are conducted by the labour law panels (and in the administrative panels in case of employers of the state) of the Budapest-Capital Regional Court or the County Regional Courts. In the second instance, cases are heard by the labour law (administrative law) panels of the Regional Courts of Appeal. Subject to certain conditions, the Supreme Court of Hungary (the *Kúria*) has a final appellate role in such cases. The Hungarian system does not have separate courts for employment debates; rather, these cases are handled by general jurisdiction courts, within specialised panels.
- At first instance, in all labour law disputes, cases are adjudicated by a panel composed of one professional judge and two lay judges. At administrative law disputes there is a panel of three professional judges. At second instance, the panel always consists of three professional judges, while at the *Kúria*, panels are composed of five professional judges. There are no specific rules regarding the composition of the panels in these proceedings.
- The proceedings in collective labour disputes are governed by the general rules of civil procedure, with specific modifications laid down for labour law disputes (Act CXXX of 2016 on Civil Procedure-hereinafter CCP). Employees or employers may bring a case before the court for any violation of their rights under the Labour Code, including any infringement of their rights related to trade union activity or the exercise of collective rights. Trade unions may also assert claims arising from the Labour Code or a collective

agreement before the court. A collective agreement may set out different rules for the enforcement of claims based on rights specified therein.

- The court proceeds in a two-tier non-contentious procedure where the dispute concerns the breach of rules on information and consultation – as regulated, among others, by EU Directive 2002/14/EC – or where the legality or illegality of a strike is to be determined. In such procedures, very short deadlines apply to both the parties and the court, in order to ensure effective legal protection in line with international labour standards, including ILO Conventions No. 87 and No. 98.
- Additionally, the employer and the trade union may establish a conciliation committee to resolve disputes between them. A collective agreement may also provide for the establishment of a permanent committee. The employer and the trade union may agree in writing in advance to submit themselves to the decision of the committee, in which case the decision of the committee is binding.
- As these procedural rules have remained unchanged in Hungary for an extended period, their application is well-established in judicial practice, and no recent court decisions have been issued that would have a precedent-setting impact on the interpretation or application of these provisions.

3. Protection against discrimination and interference – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

According to Article VIII (5) of the Fundamental Law, trade unions and other interest groups may be freely formed and operate on the basis of the right of association.

Section 271 of the Labour Code states that employers may not demand that employees disclose their trade union affiliation.

Employment of an employee may not be rendered contingent upon his membership in any trade union, on whether or not the employee terminates his previous trade union membership, or on whether or not he agrees to join a trade union of the employer's choice.

The employment relationship of an employee shall not be terminated, and the employee shall not be discriminated against or mistreated in any other way on the grounds of trade union affiliation or trade union activity.

Any entitlement or benefit may not be rendered contingent upon affiliation or lack of affiliation to a trade union.

Elected trade union officials are entitled to special protection under labor law. The purpose of this protection is to prevent discrimination or retaliation against officials on account of their position and thus to ensure that the trade union can represent its members' interests without hindrance. The essence of labor law protection is that the consent of the immediate higher trade union body is required for the termination of the employment relationship of an employee holding a trade union position by the employer, as well as for temporary employment in another position, workplace, or with another employer that differs from the employment contract. Any action taken by the employer without prior consent is considered unlawful. If the immediate higher trade union body does not give its consent, the court may issue a substitute consent if the refusal violates an overriding public interest or the employer's interest deserving special consideration, provided that the conflict of interest cannot be resolved in any other way. Consent cannot be replaced by a court ruling if the termination of employment is proven to hinder trade union and interest protection activities.

The trade union has the right to establish its own organizational structure and, within that framework, to determine the circle of officials. This classification cannot be challenged by the employer. Protection is granted to trade union officials designated by the trade union.

According to judicial practice, the employer may not dispute the legality of the election of a trade union official and may not oblige the trade union to prove that the official was elected in accordance with the rules. Therefore, the employer is obliged to obtain the prior consent of the trade union even if it doubts the legality of the election (EBH2007. 1631.).

One of the most important changes in terms of the protection of trade union officials was the limitation of the number of officials enjoying protection with the entry into force of the Labor Code. The law makes the number of officials receiving protection dependent on the number of employees working at the workplace (if the number of employees does not exceed 500, one person; if the number of employees exceeds 500 but does not exceed 1,000, two persons are entitled to express protection under labor law; if the number of employees exceeds 1,000 but does not exceed 2,000, three persons; if the number of employees exceeds 2,000 but does not exceed 4,000, four persons; if the number of employees exceeds 4,000, five persons are entitled to express protection under labor law.

The law seeks to prevent trade unions from changing the circle of officials enjoying protection without sufficient justification, allowing this only in two cases: the termination of the official's employment relationship or the termination of the official's position. For reasons other than these, the circle of protected persons cannot be changed from what was previously communicated. This is problematic in cases where a trade union official is not working due to the birth of a child and is on unpaid leave, because no other official can take their place in terms of protection.

It happens sometimes that employers pay the wages of employees who have employment relationship with trade unions. This raises serious doubts about the impartiality of unionized employees and their activities.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

I. Establishment

The amendment to the Fundamental Law stipulates a constitutional ban on the formation of trade unions for members of the Hungarian Armed Forces from July 1, 2024. However, soldiers may establish other interest representation bodies in accordance with the provisions of the government decree. Following the amendment, the Armed Forces Trade Union, established in 1991, continued to operate as an association under other legislation (Armed Forces Interest Representation Organization), given that its activities go beyond the scope of trade union operations.

II. Operation: Changes regarding union dues.

The legislature has made a significant change to pay union dues for law enforcement officers, public employees, civil servants, teachers, and healthcare workers. The general rules applicable in the private sector do not apply here. From January 1, 2024, employers will not be able to deduct or transfer union or other interest group membership fees from wages or salaries.

The trade unions have appealed to the Constitutional Court. They argued that access to membership fees is a fundamental condition for the existence and operation of trade unions. The deduction of membership fees by employers and their transfer to trade unions is a manifestation of the cooperation between employers and employees enshrined in the Fundamental Law. Unjustified legal obstacles to the payment of membership fees, which contribute to the functioning of trade unions, restrict and impede the free functioning of trade unions, which is protected by the Fundamental Law. It places an additional financial and administrative burden on trade union members and has adverse consequences for the trade

union itself, as the additional burdens also jeopardize membership. In their view, the equal treatment has been violated by the fact that no such solution has been introduced for trade unions operating in the private sector.

According to the Ministry of Justice, the legislative intent behind the introduction of the new rules on the deduction of membership fees was not to make it impossible for trade unions to operate. It acknowledges that, prior to the amendment coming into force, Hungary had applied (since 1999) the so-called "check-off" system, in which employers deduct their employees' union dues from their wages through the payroll and transfer the money to the unions. At that time, bank accounts were not yet widespread. Today, anyone can easily set up a transfer order at a financial institution, online or via a mobile phone application. The legislative intent behind the contested regulation was to ensure that the obligation to deduct membership fees, which represents a significant administrative burden, did not fall on employers. The abolition of the deduction of union dues by employers means that employees must take steps to pay their union dues, which is nothing more than the employee's choice.

The Constitutional Court rejected the complaint in its ruling 3365/2024. (X. 8.) AB due to its incomplete content.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

1. Definition and Subjects of Collective Bargaining

The Hungarian Constitution (formally designated the Fundamental Law of Hungary, hereinafter Constitution) Article XVII (2) guarantees the right of employees, employers, and their organizations to conduct negotiations, to conclude collective agreements, to act jointly in the protection of their interests, and to stage strikes. This provision places collective bargaining at the level of constitutional protection, while Article IX ensures the freedom of association, forming the legal basis for trade unions and other employee organizations.

Under the Labour Code, collective agreements are recognized as a specific source of labour law. The LC explicitly classifies them as “rules relating to employment relationships”,² granting them a quasi-normative character.

The scope of regulation could be the following:³

- A collective agreement may regulate any rights and obligations arising from or connected to the employment relationship (the so-called normative part), as well as the conduct of the parties in connection with the conclusion, performance, and termination of the collective agreement (the so-called contractual part).
- As a general principle, collective agreements may deviate from the provisions of the Second and Third Parts of the LC (general provisions and employment relationship).⁴ This establishes a wide regulatory autonomy for the bargaining parties. However, the LC restricts the possibility of collective bargaining in many cases, either by allowing deviations only in favor of the employee (so-called relative dispositive rule) or by not allowing them at all (so-called mandatory rule). The LC implements this regulatory approach by means of a legal technical solution. It lays down a general provision on the authorization to regulate by collective agreement, i.e., the possibility of deviation. In contrast, special provisions restricting the power to regulate by collective agreement are found at the end of the LC's groups of provisions regulating specific subjects, usually under the heading "Deviating agreements." These special provisions therefore refer to the mandatory (not allowing derogation even by collective agreement) or relative dispositive (allowing derogation in favor of the employee or in a specific manner) nature of a provision of the given set of rules.
- A separate provision in the law expressly states that collective agreements may not deviate from the provisions of regulations about enforcement of labour claims and labour inspection, nor may they restrict certain rights⁵ provided for trade union rights.⁶

The LC in force thus introduced a fundamental shift from the earlier regime: instead of establishing minimum labour standards to be supplemented by collective agreements, it generally allows the bargaining parties to regulate working conditions, subject only to a limited set of mandatory (cogent from which even the collective agreement cannot deviate from) or relatively dispositive statutory rules. This system, however, preserves the principle that individual employment contracts may only derogate from a collective agreement in favour of the employee, unless otherwise provided by law.⁷

² LC Section 13

³ LC Section 277

⁴ LC Section 277 Paragraph 2

⁵ LC Section 271-272

⁶ LC Section 277 Paragraph 3

⁷ LC Section 43 and Section 277 § Paragraph 4

In terms of subjects of bargaining, Hungarian collective agreements typically cover wages, working time, overtime, classification, leave entitlements, and procedural rules for consultation. Their normative provisions apply to all employees of the contracting employer, or, in the case of agreements concluded by employer associations, to all employees of member employers.⁸

Public sector employers are subject to stricter limitations:⁹ the scope of mandatory rules is broader, meaning fewer deviations are allowed by collective agreement compared to the private sector. The 2023 amendment to the Act on Public Employment further clarified the legal situation of employers that became state-owned after the LC entered into force.

2. Recognition of trade union organizations and preferential rights – and rights of minority unions

In Hungary, trade unions are legally recognized as associations under Article IX (1) of the Constitution, with the specific purpose of protecting employees' employment-related interests. The key distinction is that only trade unions with actual representation at the workplace (hereinafter workplace trade unions) – i.e. those operating an organizational unit or having an elected official at the employer – are entitled to exercise statutory rights under the LC (hereinafter representative trade unions).¹⁰

2.1. Right to conclude collective agreements – only for representative trade unions

The most significant distinction among workplace trade unions is that the right to conclude a collective agreement is not granted to all workplace trade unions, but only to those reaching a minimum threshold of representativeness.

- A workplace trade union may conclude a collective agreement if its membership equals at least 10% of the employer's workforce.¹¹
- Where multiple unions meet this requirement, they must jointly exercise the right to bargain and conclude the agreement. This is important because only one collective agreement can exist with a given employer.¹²
- At the multi-employer or sectoral level, the 10% threshold applies to the total workforce covered by the agreement. Special rules apply to federations,¹³ and sectoral agreements are further regulated by the Act LXXIV of 2009 on Sectoral Dialogue Committees (hereinafter SDC Act).

⁸ LC Section 279 Paragraph 1

⁹ LC Section 204–207

¹⁰ LS Section Sections 270–272

¹¹ LC Section 276 Paragraph 2

¹² LC Section 276 Paragraph 5

¹³ LC Section 276 Paragraph 3

Thus, the right to conclude a collective agreement is a preferential right, reserved exclusively for those workplace trade unions that have achieved a sufficient level of representativeness.

Prior to 2023, minority or newly established unions that gained representativeness after a collective agreement had been concluded could only participate in its modification with consultation rights but not with full voting rights. This effectively entrenched the privileged position of established representative trade unions.

However, the Constitutional Court's Decision 22/2023. (X. 4.) AB annulled this restriction, declaring the limitation unconstitutional. Following the decision of the Constitutional Court, this was modified in such a way that, after the conclusion of a collective agreement, a trade union that has acquired the right to conclude collective agreements is entitled to initiate amendments to the collective agreement and to participate in the relevant negotiations. At the same time, contracting party status, and the right of termination as part thereof, are not granted.¹⁴

2. Other statutory rights – granted to all unions with workplace representation

By contrast, all unions that have workplace representation (regardless of size) enjoy a wide range of rights under the LC, including:

- Information and consultation rights:
 - Right to express an opinion on any employer's measure or planned measure.¹⁵
 - Right to initiate consultations with the employer, during which the employer must suspend the planned decision for at least seven days.¹⁶ However, the employer may be exempted from consultation if it would endanger legitimate business interests.¹⁷
- Representation rights:
 - Right to represent employees vis-à-vis the employer without specific authorization.
 - Right to represent members in judicial proceedings with authorization.¹⁸
- Facility rights:
 - Free transfer of trade union membership fees by the employer [1991 Act XXIX].
 - Use of employer premises for union activities.¹⁹

¹⁴ Kúria (the Supreme Court of Hungary) judgment no. Mfv.10004/2025/5

¹⁵ LC Section 272 Paragraph 5

¹⁶ LC Section 233

¹⁷ LC Section 233 Paragraph 1

¹⁸ Code of Civil Procedure, Section 514 Paragraph 3

¹⁹ LC Section 272 Paragraph 6

- Paid time-off for union activity (one hour per two members per month)²⁰
- Protection of union officials (special labour law protection, see in detail in Point 3).

These rights apply equally to majority and minority trade unions, provided they have workplace representation.

3. The Principle of Free and Voluntary Bargaining

The Hungarian collective bargaining framework is based on a voluntarist model, which is explicitly guaranteed by the Article XVII (2) of the Constitution. Thus, the state acknowledges collective bargaining as a fundamental right but refrains from prescribing its outcome.

If a representative workplace trade initiates bargaining, the employer is under a legal duty to enter into negotiations.²¹ However, the law does not compel the parties to reach an agreement or to sign a collective agreement. Bargaining may therefore end without settlement, underscoring the voluntary nature of the process. This model ensures that collective bargaining is an autonomous process between social partners, free from state-imposed results.

The right to strike is a relevant element of free and voluntary bargaining, which serves as the employees' ultimate economic pressure tool if negotiations fail (see in detail Point 6). The right to strike is guaranteed by the Article XVII (2) of the Constitution and regulated by Act VII of 1989 on Strikes (hereinafter Strike Act.). Strikes are permitted in support of collective bargaining demands, but subject to conditions such as prior conciliation procedures and minimum service obligations. In the public sector, the right to strike is significantly restricted: minimum service levels must be agreed upon in advance with the government.²² This has led to criticism from unions and international bodies (including the ILO), as the requirement for government approval can operate as a substantial limitation on free bargaining.

In certain sectors (e.g. education, healthcare, transport), strikes have been heavily restricted by legislation requiring government agreement on minimum service provision before any industrial action.

4. Freedom to Decide the Level of Negotiation

The Hungarian collective bargaining system is marked by a high degree of decentralization. In practice, bargaining overwhelmingly takes place at the company or enterprise level, while sectoral and higher-level agreements play a marginal role. This reflects the limited organizational strength of both trade unions and employers' associations at the industry level, which hinders the development of broader, sector-wide bargaining structures.

²⁰ LC Section 274

²¹ LC Section 276 Paragraph 7

²² Strike Act Section 4

The LC expressly preserves the possibility of multi-level bargaining. A narrower-scope collective agreement (e.g., company-level) may coexist with a broader one (e.g., sectoral agreement).²³ As a general rule, the narrower agreement may only deviate in favor of the employee, unless the broader agreement explicitly authorizes derogations to the detriment of employees. This establishes a formal hierarchy while maintaining contractual autonomy.

The Hungarian system includes the possibility of extension of collective agreements by ministerial decision, as regulated in the SCD Act.²⁴ Such an extension requires a joint request from the bargaining parties and is published in the *Magyar Közlöny*.²⁵ The mechanism ensures that an agreement's provisions apply to all employers within a given sector or sub-sector, provided representativeness criteria are met. However, in practice, this procedure is rarely utilized, and sectoral extensions remain exceptional.

In sum, Hungarian law formally guarantees freedom in determining the level of collective bargaining and provides a structured framework for multi-level agreements and their extension. Nonetheless, company-level bargaining dominates in practice, with sectoral and national mechanisms playing only a residual role, leaving most working conditions determined by statutory minimums and individual contracts rather than broader collective regulation.

5 Principle of good faith

As a general principle²⁶ all parties to an employment relationship, including collective actors, are required to exercise their rights and fulfill their obligations in accordance with the principles of good faith and fair dealing, and they are obliged to cooperate with each other. In practice, this means that during negotiations, parties must avoid any behavior that would jeopardize or obstruct the possibility of reaching an agreement. They are expected to engage in meaningful dialogue, exchange information necessary for bargaining, and pursue negotiations with the genuine aim of reaching consensus. The consultation rights²⁷ provided in the LC further operationalize this principle: when a union initiates consultation, the employer must suspend the intended measure during the consultation period and conduct discussions in a manner that ensures effective representation and substantive exchange of views. Failure to respect these duties may result in judicial intervention.²⁸ Violations of consultation obligations can be challenged before the courts in expedited proceedings, with strict procedural deadlines to ensure the swift protection of rights. However, it is important to note that in the event of a violation of the right to consultation, only a declaration of

²³ LC Section 277 Paragraph 4

²⁴ SCD Act Section 17–18

²⁵ The Magyar Közlöny is Hungary's official gazette, where laws, government decrees, and other binding regulations are officially published. Publication here is required for a legal act to take effect.

²⁶ LC Section 3

²⁷ LC Section 233–234

²⁸ LC Section 289

illegality may be made in non-contentious proceedings, but consultation cannot be enforced (as bargaining remains voluntary).²⁹

Hungarian case law also reflects the significance of the good faith principle. Based on the principle of cooperation, the employer must respond to requests from the workplace trade union, even if they do not provide the requested information for reasons specified by law. Consequently, the employer's failure to respond to the trade union's request for information constitutes a violation of the law. In such cases, the court shall find that the employer has failed to comply with its obligation to provide information without examining the merits of the request for information.³⁰

In sum, Hungarian labour law treats the principle of good faith as a binding legal standard in collective bargaining. While parties are not compelled to reach a final agreement, they are legally obliged to conduct negotiations in a cooperative and honest manner, refrain from obstructive tactics, and respect procedural rights such as consultation. This framework seeks to balance the voluntarist character of collective bargaining with enforceable duties of fairness and cooperation, ensuring that the process retains both autonomy and integrity.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

There have been significant changes regarding strike regulations, which have become stricter. The legislator has defined by law the exact content of adequate services in the event of a strike in public education institutions. The law stipulates a 50% or, in some cases, 100% attendance requirement, with supervision provided from 7 a.m. to 4 p.m. or 5 p.m., and stipulates that classes and groups may not be mixed. In protest against the law, strikes and civil disobedience movements were launched in public education institutions, and students demonstrated across the country. Several teachers who engaged in civil disobedience were dismissed with immediate effect for violating their work obligations.

²⁹ Kúria judgment no. Mfv. 10.129/2014/5.

³⁰ Kúria judgment no. EBH2014. M.21

Members of Parliament and trade unions also appealed to the Constitutional Court, arguing that the legal regulation makes it impossible to hold a strike and deprives it of its pressure-exerting nature. Without exerting pressure, a strike is not a strike, since the defining characteristic and conceptual criterion of a strike is that it can exert pressure on the employer. They also cited violations of ILO conventions and case law.

The Constitutional Court rejected the application (1/2023. (I. 4.) AB decision). According to the reasoning, the right to strike is not an absolute right, nor is it a fundamental right of a subjective nature. The Fundamental Law itself states that this right may be exercised as specified by law. It follows from this that even a ban on strikes may be considered constitutional. The law undoubtedly sets out a framework which, in some cases, may require employees who declare their participation in a strike to perform part of their work (e.g. supervising children instead of teaching, teaching classes in high school grades preparing for final exams, teaching at least 50% of classes at the institutional level) in some cases. The law makes the head of the institution responsible for organizing the actual work schedule, which also requires that the work schedule take into account both the minimum service required by law and the rights and obligations of striking and non-striking employees. The possibility of cooperation between the parties involved in the collective dispute must and can be enforced. The Constitutional Court emphasized that these restrictions do not make it impossible to exercise the right to strike. In line with the purpose of the law, it also identifies the fundamental rights that need to be protected: the fundamental right of children to education and proper physical and mental development.

Following the evidence presented, most courts ruled that the dismissal of civil disobedient teachers was lawful, but there were cases where dismissal was deemed unlawful due to the absence of a significant breach of duty. Final judgments have been handed down, but the Supreme Court has not yet ruled on the matter.

In addition, civil servants and healthcare workers may also exercise their right to strike in accordance with specific rules laid down in an agreement between the Government and the relevant trade unions.

The Constitutional Court also examined the constitutionality of this issue and rejected the motion. In Decision 30/2012 (VI. 27.) AB, the Constitutional Court stated that, similar to the justification for the ban on strikes by members of the judiciary and the Hungarian Armed Forces, the interest in the uninterrupted and continuous functioning of state administrative bodies performing executive powers is a valid reason for restricting the right to strike. The Constitutional Court also found no cause for concern in the fact that the restriction of the right to strike was not enacted by law but was based on a statutory authorization in an agreement between the Government and the trade unions concerned, as this did not constitute a direct and significant restriction of the right to strike, and, in particular, the participation of the parties concerned in the formulation of the conditions is not objectionable.

The agreement with civil servants was concluded in 1994, and since its conclusion, it has not been amended or terminated and remains in force. According to it the right to initiate a strike belongs to the trade unions that have signed the agreement and those that have acceded to it. The condition for the initiative is a statement by an authorized representative of the trade union that the trade union has the authorization of the majority of civil servants to initiate the strike, which must be verified by documents.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

According to the decision of the Supreme Court (Mfv.VIII.10.120/2022/4.), participation in a strike cannot be considered a political opinion in itself. However, participation in a strike that also includes political demands may be considered a political expression and thus a protected characteristic if the employee also performs additional activities related to the strike demands (organization, etc.). According to the facts of the specific case, on September 1, 2020, the defendant was transformed from a state university into a private university maintained by a foundation. The university senate dissolved itself, all department heads resigned, and the university's students blockaded the university's property, stating that they did not accept the change of model and considered it illegitimate. The university's employees went on strike, including the plaintiff. In their strike demands, the participants asked the defendant to guarantee freedom of creation, education, and the university, and to allow the university community to determine the internal functioning of the university through democratic means. The plaintiff actively organized the strike, and the defendant terminated his employment without justification during his probationary period. The Supreme Court found that the demands made by the employees in the strike were not fundamentally related to the employment relationship with the defendant but rather contained broader objectives concerning university autonomy and freedom of education. On this basis, the demands represented a broader political opinion that was contrary to the legislation. The plaintiff's active conduct and clear involvement in the strike demands established that the plaintiff held a political opinion that constituted a defining characteristic of his personality worthy of protection, and that the defendant violated the requirement of equal treatment by terminating her employment.

► IRELAND

Respondent: Louise O'Donnell, Chairman, Labour Court

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Ireland has a voluntary system for collective bargaining meaning it doesn't have a specific law guaranteeing a right to collective bargaining for all workers, including civil servants. Whilst there is a constitutional right to freedom of association, there is no specific constitutional protection for collective bargaining.

In Ireland most workers enjoy the constitutional right to freedom of association, which includes the ability to join or form trade unions. Art 40.6.1 of the Irish Constitution sets out the right of citizens to form associations and unions but that laws may be enacted for the regulation and control in the public interest of the exercise of that right.

Members of the Irish national Police force called the Garda Síochána are prohibited under the *Garda Síochána Act 2005* from joining a trade union but instead have representative bodies but no formal union status or right to collective bargaining or strikes.

Under s103 of the *Defence Act 1954*, the Irish defence forces are excluded from joining any political or secret organisation or society or engaging in strike/industrial action.

Bargaining over employment terms and conditions throughout much of the public sector is conducted under the aegis of conciliation and arbitration schemes.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

In Ireland, this is the Labour Court which is not a court of law but a specialist industrial relations tribunal. The Court operates under the Industrial Relations Acts. It can hear both sides in a dispute and issue a Recommendation setting out its opinion on the dispute and the terms on which it should be settled. It can also investigate disputes where an employer refuses to engage in collective bargaining. The Workplace Relations Commission handles first instance complaints and conciliation in collective disputes, if the matter is not resolved it is then referred to the Labour Court.

Recommendations made by the Court concerning the investigation of disputes under the Industrial Relations Acts 1946 – 2015 are not binding on the parties concerned. However, the parties are expected to give serious consideration to the Court's Recommendation. Ultimately, however, responsibility for the settlement of a dispute rests with the parties.

The Irish Supreme Court case *Naisiunta Leictreachta (NECI) v Labour Court & Ors [2021] IESC 36* concerned a challenge by NECI, a body representing small and medium electrical contractors, to a Sectoral Employment Order (SEO), setting out minimum rates of pay and working conditions for the electrical contracting sector. The judgement upheld the constitutionality of the legislative framework underpinning the SEO and confirmed its acceptance of the key objective of the legislation – maintaining industrial harmony. The issue of trade union recognition is noted in the Supreme Court judgement within a European context. MacMenamin J stated at prg 139, “In *Demir v Turkey*, Application 34503/97, the ECtHR observed that the right to bargain collectively with an employer had, in principle, become one of the essential elements of the right to form and join trade unions, for the protection of interests set forth in Article 11 of the Convention. Collective bargaining is now seen as a recognised feature of the social market within the Union. The Oireachtas sought to give effect to such entitlement, as long ago as 1946. It is given statutory recognition in the Act of 2015³¹, a post-1937 statute. (See s 27.1A and 1B)³²”

³¹ Industrial Relations (Amendment Act) 2015

³² **Amendment of Principal Act**

27. The Principal Act is amended by the insertion of the following sections after section 1:

“Collective bargaining

1A. For the purposes of this Act, ‘collective bargaining’ comprises voluntary engagements or negotiations between any employer or employers’ organisation on the one hand and a trade union of workers or excepted body to which this Act applies on the other, with the object of reaching agreement regarding working conditions or terms of employment, or non-employment, of workers.

Excepted body to which this Act applies

1B. For the purposes of this Act, ‘excepted body to which this Act applies’ means a body that is independent and not under the domination and control of an employer or trade union of employers, all the members of which body are employed by the same employer and which carries on engagements or negotiations with the object of reaching

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

In Ireland, employers are not legally obliged to recognise or collectively bargain with unions. However, it is unlawful for employers to penalise workers for being in a union. Under the *Unfair Dismissals Act 1977*, it is an unfair dismissal if an employee is dismissed wholly or mainly because of trade union membership or proposed membership or engaging in activities on behalf of a union. Employees can bring unfair dismissals claim to the Workplace Relations Commission and to the Labour Court on appeal.

- 4. Freedom of association (in general)** – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Ireland has a constitutional right to freedom of association under Art 40.6.1 of the Constitution. As will be discussed in the next question, the obligation to promote collective bargaining under the adequate minimum wages directive is being examined in Ireland by a government appointed group.

agreement regarding the wages or other conditions of employment of its own members (but of no other employees).”.

A series of Trade Union Acts 1941-1990 provide for the registration, regulation and governance of trade unions. The Trade Union Acts require unions to obtain a negotiation licence to engage in collective bargaining on pay and conditions.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Ireland operates a voluntary system of industrial relations, where the State tries to assist parties to reach agreement amongst themselves. However, there are weaknesses in the system when parties refuse to engage

The Irish Government established a working Group, set up under the Labour Employer Economic Forum on collective bargaining to examine the existing workplace relations framework. Issues such as trade union recognition and the current statutory wage-setting mechanisms were reviewed. The report was published in October 2022. In Ireland the minimum wage has increased in 2025 and Ireland implemented the *European Union (Adequate Minimum Wages) Regulations* in 2024. Employees in certain sectors have other minimum rates of pay, for example, the security and cleaning sectors. The rules for those sectors are set out in Registered Employment Agreements proposed by Joint Labour Committees under Industrial Relations legislation. Even if the hourly pay rates are set out in an Employment Regulation Order (ERO), an employer must pay their employees at least the legal minimum wage.

The Irish Government committed to the development of an Action Plan to promote collective bargaining as required by Article 4 of the EU Directive on Adequate Minimum Wages. The deadline for the Action Plan to be submitted to the Commission is the end of 2025. A public consultation on the action plan has been conducted.

At time of writing a CJEU decision on a Danish challenge to the Directive is awaited and what impact this will have will need to be assessed.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Recent disputes in the health care setting and education have stayed within the Irish industrial relations mechanisms, disputes were heard at the Workplace Relations Commission and the Labour Court.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The implementation of the Directive on Adequate Minimum Wages could end up before the Courts if it is argued that Ireland is failing in its obligations to promote collective bargaining.

► ISRAEL

Respondent: Miron Schwartz, President, Regional Labour Court of Nazareth

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

Yes.

Israel has ratified the two Conventions mentioned above, Convention No. 87 and Convention No. 98. In Israel, The freedom of association is a constitutional right, as established under The Law of Human Dignity and Liberty, as well as in Israeli case law.

For example, 7029/95 The New General Federation of Labour v. The National Labour Court: this case reinforced the recognition that employees' freedom of association is not merely a contractual or statutory right, but rather a constitutional fundamental right, derived from the core values of the Israeli legal system. This provided a broader foundation for the development of practical protections for employees and for labor unions.

In addition, The Collective Agreements Law, recognizes the right of employees to unionize and establish a labour organization.

Furthermore, the Labour Courts have developed protections for initial organization, which will be discussed in detail later on.

Freedom of association is a fundamental right protected under both Israeli and international law. In most cases, all employees in Israel are entitled to freedom of association. However, there are exceptions, primarily within security and governmental bodies, where this right is restricted or do not exist due to special statutory frameworks, where rights are regulated through other mechanisms.

Examples of exceptions:

IDF soldiers: They are not entitled to freedom of association. The Released Soldiers Law states that soldiers in regular service are not considered “employees,” and therefore are not subject to regular labour law, nor do they enjoy the right to freedom of association or collective labour relations. Their rights are governed by IDF regulations rather than by collective bargaining.

Judges: According to The Judiciary and the Courts Law, judges are not considered “employees” but they hold a statutory status. Their salaries and terms of service are regulated by the Judges’ Committee and by legislation of the Knesset.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

The Labour Court is the competent authority to adjudicate disputes concerning freedom of association and the right to engage in collective bargaining. The Labour Court Law grants the Labour Court exclusive jurisdiction over such matters. This law further empowers both the Regional Labour Courts and the National Labour Court to hear “collective disputes” and issues concerning labour relations in general.

The Collective Agreements Law states that a body recognized as a workers’ organization may file claims on behalf of an employee or a group of employees where collective rights have been infringed or where collective bargaining has been obstructed. However, an individual employee may also bring a claim if his or her personal rights in connection with organization have been violated.

According to The Labour Court Law, hearings are conducted before a panel composed of a professional judge, together with a public representative of employees and a public representative of employers. This tripartite composition is intended to balance the interests of both sides.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers’ and employers’ organizations shall enjoy adequate protection against any acts of

interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

The Collective Agreements Law regulates collective rights and labour relations. The law states that an employer shall not infringe upon an employee's right to organize and shall not, directly or indirectly, interfere with the activities of a labour organization. It also prohibits any adverse action against an employee based on membership in a labour organization.

The law also imposes on the employer an obligation to conduct collective bargaining with a representative labour organization and prevents interference with the identity of the organization.

In addition, there are practical protective mechanisms, including broad remedies available under the jurisdiction of the labour Court, which is empowered to issue injunctions, orders to act, and reinstatement of employees who were dismissed on organizational grounds.

In the Pelephone case (case number 25476-09-10), the question arose regarding the limits of the employer's freedom of expression versus the employees' right to organize. The General Federation of labour initiated an initial organization of Pelephone employees, and the company's management published various statements expressing opposition to the organization. The National labour Court held that an employer is prohibited from interfering with or expressing any position regarding employee organization, even if it is merely an expression of opinion. The main rationale was that, due to the inherent power imbalance in labour relations, any message from the employer could intimidate employees and undermine their freedom of choice to join a labor organization. Consequently, the employer's freedom of expression must yield to the need to ensure employees' freedom of association.

The ruling established a key precedent in Israeli labour law, creating a kind of "protective barrier" for initial organization by precluding any employer expression that could be interpreted as influencing employees. Since that decision, the legal principle has been that an employer must maintain complete neutrality regarding employee organization, and any

breach may be considered an infringement of employees' fundamental rights, potentially leading to significant remedies.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

- The right to organize, autonomy of organizations, and non-interference by the authorities:
The Labor Courts have repeatedly affirmed that this right is fundamental and cannot be limited through governmental or employer interference.

The Pelephone Case that was mentioned in question number 3 above, reinforced protection against employer interference in initial organization.

- Right to establish an organization without previous authorization:

In Israel, there is no requirement for prior state approval to establish a labor organization. The Collective Agreements Law allows employees to form a labor organization without governmental licensing.

The Ministry of Labor maintains a register of labor organizations, but this is a technical registration procedure to confer legal status and is not a condition for the organization's existence.

- Right to draw up constitutions and rules and to elect representatives in full freedom:

Labor organizations in Israel are autonomous entities. The Collective Agreements Law provides that a labor organization is entitled to manage its internal affairs as it sees fit.

Moreover, the courts refrain from interfering in internal elections unless there is a serious violation of members' rights or a breach of the principle of equality.

- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programs:

According to The Collective Agreements Law, the principle of organizational autonomy allows the union to set priorities, conduct strikes or labor disputes, and develop collective strategies, subject to statutory limitations.

The Labor Courts have emphasized that the right to strike is a fundamental collective right, However, there are limitations: in essential services, injunctions or restrictions may be imposed by the state to protect vital public interests.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

-Definition and subjects of collective bargaining

In Israel, the subjects of collective bargaining include the main terms and conditions of employment, such as wages, working hours, vacations, and social benefits. However, the labour Courts have expanded the definition to include internal organizational matters within the workplace that affect employees, while maintaining the principle of broad, free bargaining.

- Recognition of trade union organizations and preferential rights – and rights of minority unions

Under Israeli law, a representative labour organization is entitled to official recognition to conduct negotiations with the employer. Minority organizations may participate in bargaining but the employer is not obligated to negotiate with them fully. Recent case law trends strengthen the status of minority organizations when they represent a significant group of employees, while upholding the principle of equal representation.

- Principle of free and voluntary bargaining

Collective bargaining freedom allows the parties to negotiate freely, without coercion or interference from the employer or the authorities. The labour Courts have reinforced the obligation to negotiate in good faith.

- Freedom to decide the level of negotiation

Labour unions are entitled to decide whether bargaining will be conducted at the level of a specific workplace, industry-wide, or nationally, depending on the organization's size, representation, and field of specialization.

- Principle of good faith

The labour Courts uphold the principle of good faith as part of the obligation to conduct collective bargaining. Parties are required to act honestly, avoid negotiating contrary to the objectives of bargaining, and provide necessary information for effective negotiations.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

The labour Disputes Settlement Law constitutes the principal legal framework for regulating collective labour disputes in Israel. The law grants powers to state institutions, such as the National labour Court, to initiate mediation and arbitration proceedings in cases of disputes between employees and employers. These procedures are intended to prevent the escalation of disputes and to achieve mutually agreed resolutions. For example, in a dispute between the Teachers' Union and the Ministry of Education, the National labour Court ordered the suspension of a strike due to the failure to conduct a legally required dispute resolution procedure.

A strike is considered a legitimate tool within the context of a labour dispute; however, it must be conducted in accordance with statutory requirements, such as providing prior notice of the dispute. The labour Courts have ruled, for example, that a strike undertaken without prior notice is unlawful.

In recent years, the National labour Court granted the request of the Local Government Center, the Ministry of Finance, and the Ministry of Education, issuing an injunction preventing the Secondary School Teachers' Union from undertaking organizational measures, including strikes, in a labour dispute declared by the union. The dispute was initiated following teachers' claims regarding adverse changes to working conditions, including the cancellation of their right to select a weekly day off, reductions in salary, and the suspension of early retirement options. The Court held that most of the claims raised were legal disputes that should be resolved in court rather than through organizational actions. In its decision, the Court emphasized that the education system requires certainty and stability, and therefore organizational measures should be avoided at this stage.

The Court's remarks underscore the importance of maintaining stability within both the education system and the judicial system, clarifying that strikes should not be used as a tool to resolve legal disputes. The decision also highlights the need to conduct negotiations and formal legal procedures to resolve disputes, rather than immediately resorting to organizational actions.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

In recent years, the Labor Courts in Israel have addressed significant issues relating to the freedom of association and the right to collective bargaining, while expanding legal protections and clarifying fundamental principles in this area.

One recent development arose in case number 6298-03-25, in which the National Labor Court accepted the appeal of the General Federation of Labor and held that the internal committee established at the company of Nokia does not qualify as a labor organization.

The Court emphasized that, in order to be recognized as a labor organization, a body must meet the conditions established in the Israeli case law, foremost among them the purpose of promoting employees' working conditions through collective bargaining. The internal committee at this company did not meet this requirement, as it preferred individual contracts over collective agreements, which contradicts the essence of labor organizations. The decision reinforces the status of the General Federation of Labor as the representative labor organization and clarifies the criteria for recognizing a labor organization.

► **NORWAY**

Respondent : Eli Mette Jarbo, Judge, Labour Court

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

Introduction: All the mentioned ILO conventions have been ratified by Norway and are legally binding under Norwegian law. The European Convention on Human Rights, along with several other important treaties on human rights, has been incorporated through the Human Rights Act and applies as Norwegian law. The freedom of association was included in the Norwegian Constitution as part of a constitutional reform in 2014.

All groups of employees are covered by the freedom of association and the right to collective bargaining. However, even without explicitly stated exceptions, it is assumed that senior civil servants (senior government officials, judges, senior clergy) and military personnel do not have the right to strike.

Before the constitutional protection of the freedom of association was adopted in 2014, this right was protected as a freedom through the absence or limitation of sanctions. Freedom of association has been assumed in the legislation, including in the Labour Disputes Act (first enacted with effect from 1916), which applies to the private and municipal sectors, and the Civil Service Disputes Act (1958), which applies to the state sector. As mentioned above, freedom of association is now also protected in the Constitution § 101. The Norwegian Supreme Court has stated that § 101 must be interpreted in light of the equivalent provision in the European Convention on Human Rights Article 11, cf. HR-2016-2554-P Holship. The specific content of the right has also been clarified and nuanced in case law, such as the right not to be organized, cf. HR-2000-1241 Minerydder.

2. **Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

As stated above, freedom of association has been assumed in legislation, including in the Labour Disputes Act (first enacted with effect from 1916), which applies to the private and municipal sectors, and the Civil Service Disputes Act (1958), which applies to the state sector.

The Norwegian Labour Court is a specialized court that handles disputes concerning the establishment, existence, and interpretation of collective agreements, as well as disputes regarding unlawful industrial action, cf. the Labour Disputes Act and the Civil Service Disputes Act. The parties to the agreement have the right to bring cases before the Labour Court, which typically involves an employers' organization or an employer on one side, and a workers' organization on the other. Disputes concerning freedom of association and the right to collective bargaining within the framework of collective agreements are usually handled by the Labour Court, but cases may also be brought before the ordinary courts on behalf of individual employees.

The Labour Court consists of seven judges, three of whom are professional legal judges, and four who have special experience from the employee and employer sides respectively. These four judges are appointed based on proposals from the most representative employee and employer organizations. The ordinary courts may also be supplemented with lay judges with expertise in labour relations in cases concerning employment matters.

There are no recent relevant cases before the courts and no ongoing debate or new developments regarding these issues. However, the system for appointing lay judges with labour expertise in employment cases before the ordinary courts was brought before the Council of Europe's Committee on Social Rights. The Committee concluded that the Norwegian system does not conflict with the European Social Charter. The issue has since been brought before the European Court of Human Rights (ECtHR) but has not yet been considered by the Court.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

The constitutional protection of freedom of association must be understood in light of the Human Rights Act, the European Convention on Human Rights (ECHR), and other conventions to which Norway is bound, cf. the introduction to the answer to question 1. Protection against discrimination and interference will therefore be in accordance with this legal framework. Furthermore, the Working Environment Act contains an explicit prohibition against discrimination based on political views and membership in a workers' organization, cf. Section 13-1, first paragraph of the Working Environment Act. There is no current debate or recent case law of significance in this area.

- 4. Freedom of association (in general)** – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

There are no new trends, legislation, or case law that have led to changes in Norwegian law in this area.

- 5. Right to collective bargaining (in general)** – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining

- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

There are no new trends, legislation, or case law that have led to changes in Norwegian law in this area.

- 6. Dispute prevention and resolution and strike action** – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

There are no new trends, legislation, or case law that have led to changes in Norwegian law in this area.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer:

There are not any new developments or case law concerning freedom of association and the right to collective bargaining in Norway.

► SLOVENIA

Respondent: Marijan Debelak, Senior Supreme Court Judge

- 1. Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The laws that regulate this area are the Act on Trade Union Representation, the Act on Collective Agreements, the Act on Employment Relations, and partly also regulations on specific areas.

Workers in the Republic of Slovenia have the right to union activity and collective bargaining. This is also explicitly stated in the Civil Servants Act (Article 18), which applies to all civil servants, including civil servants. A special system of collective agreements applies to salaries in the public sector.

There are no special restrictions on union activity for police officers, except the right to strike. The conditions for the operation of a representative union and union representatives in the police are regulated by a contract concluded between the police and the representative union. During the period of performing a professional function in a representative union, a police officer does not have the rights and obligations arising from the status of a police officer. During this time, he receives 100 percent salary compensation. The basis for calculating the compensation is his basic salary, which he received before starting to perform a professional union function, and a seniority bonus (Article 89 of the Police Organization and Work Act).

According to Article 76 of the same Act, police officers are obliged to perform the following police tasks during a strike: - protecting life, personal safety of people and property, - preventing, detecting and investigating criminal offences, - detecting and apprehending perpetrators of criminal offences and other wanted persons and handing them over to the competent authorities, - protecting certain persons, bodies, facilities, premises and areas of state bodies, - maintaining public order, - controlling and regulating traffic on public roads, - carrying out state border control, - performing tasks specified in regulations on aliens and in

cases of natural and other large-scale disasters and other exceptional circumstances, crisis, war or state of emergency. For the time when they do not have the right to strike due to the reasons referred to in the previous paragraph, they are entitled to a salary supplement in the amount of two percent of the average last monthly gross salary in the Republic of Slovenia.

Workers in the field of defence also have the right to unionize and operate in accordance with regulations. The conditions for the operation of the union and union representatives in the ministry are regulated by a contract concluded between the minister and the representative union (Article 100b of the Defence Act). Military personnel do not have the right to strike while performing military service, according to Article 99 of the Defence Act. Workers who perform administrative and professional tasks in the field of defence exercise the right to strike under the conditions set out in the Civil Servants Act. In addition to the conditions set out in the previous paragraph, workers must ensure during a strike: - the uninterrupted performance of military affairs and other matters related to the fulfilment of the fundamental duties of citizens, companies, institutions and other organisations in the field of defence; - the uninterrupted performance of civil defence matters; - continuous readiness to implement preparedness measures, courier services and mobilisation; - continuous operation of on-call services, information and telecommunications systems; - the smooth and uninterrupted performance of all matters and tasks related to the material and medical care of the army, the maintenance of assets, facilities and equipment, transport and storage for military needs; - the smooth and uninterrupted implementation of obligations assumed by international treaties in the field of defense or in connection with defense activities. In order to evaluate the restrictions arising from this article, the government shall determine an increase in the basic salary of workers referred to in this article.

For the public sector, there are also special provisions on concluding a collective agreement, which are concluded on the part of employees by numerous representative public sector unions. The system for determining whether a collective agreement is concluded (depending on how many unions have concluded it and which have not) is complex (Articles 82 - 84 of the new Act on the Common Foundations of the Public Sector Wage System).

The conclusion is that collective bargaining is not particularly restricted for any group of workers. However, there are restrictions on the right to strike, not only in the cases listed, but also for some specific activities (healthcare, telecommunications, road transport, etc.).

As an interesting point, I should say that the right to strike is not specifically regulated and thus limited or prohibited even for judges. However, the question arises whether judges can strike. Anyway there have been strikes by judges in the past.

It is also interesting that police and military unions are among the most active, if not the most active, in our country. Individual and collective labor disputes between soldiers, police officers (their unions) and the state are also the most numerous of all labor disputes.

- 2. Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The labour court is competent to resolve disputes relating to collective bargaining in a special collective labour dispute. This dispute is decided by a panel of three judges - a judge and two lay judges (executives from among workers and employers). In addition to the proposers, who may be groups of workers, trade unions, trade union associations or, on the other hand, employers or associations of employers, other persons who are holders of rights and obligations in the relationship being decided may participate in these proceedings. There are no court fees in these disputes. Regarding the powers of a trade union in relation to collective bargaining, a proposal for judicial protection is usually filed by the trade union and not by individual workers. In collective labour disputes, the court ex officio notifies the persons, bodies and associations that are the bearers of rights and obligations in the relationship being decided of the initiation of the procedure. There are other specific features of these disputes under the Labour and Social Courts Act. There are no particularly interesting cases of new developments in case law in this direction, but there are quite a few of these cases, which usually also reach the Supreme Court.

- 3. Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The prohibition of discrimination already stems from the general constitutional provisions on such a prohibition. The Employment Relations Act also contains numerous provisions on this subject, regulating the general prohibition of discrimination, the protection of employee representatives against termination of employment contracts, the possible suspension of termination of employment contracts, and a special chapter of the law that determines the operation and protection of trade union representatives. Thus, the employer must provide

the trade union with the conditions for the rapid and efficient performance of trade union activities in accordance with the regulations that protect the rights and interests of workers. The employer is obliged to provide the trade union with access to the data necessary for the performance of trade union activities (Article 203 of the Employment Relations Act). Trade union representatives enjoy special protection in the event of a transfer of activity and it is also not possible to have their salary reduced or to initiate disciplinary or compensation proceedings against them or to otherwise place them in a less favourable or subordinate position due to trade union activities (Article 206. in 207. of the Employment Relations Act).

There were no specific disputes about inferior or even discriminatory treatment. In some older disputes, the problem arose as to whether all elected union representatives appointed by the union were protected. According to our law, protection does not apply to everyone, but only to those who inform the employer of their appointment (the employer must therefore be informed of the appointment of a union representative) and who enjoy protection according to agreed numerical criteria agreed in the agreement with the employer. Therefore, not every union representative is protected, but the number of representatives agreed with the employer.

In the latest interesting disputes, we have dealt with union representatives in the army. They had only performed union work for several years and not military duties. In agreement with the employer, they had the same salary as in their last job in the army, and they were also guaranteed promotion in salary grades and decorations, just like other soldiers. The employer did not evaluate the soldiers based on their work performance, which could have resulted in a partial increase in salary if they were given a good evaluation. Later, the evaluation of the soldiers began, but the employer did not evaluate the union representatives, who performed exclusively union work. The Supreme Court rejected the request of these union representatives that the employer should evaluate them. The basic reason was that as union representatives, they only performed union tasks, that they were not involved in the employer's work process in any way, and no person from the employer side (for example, their previous company commander) knew their work and could not evaluate it (since they did not perform work tasks even to a reduced extent).

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

No new development

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area

There are no special innovations in this segment either. As I mentioned above, practically the only change is in the Act on Common Foundations of the Public Sector Wage System, which sets new rules for concluding collective agreements for the public sector, which determine wages in entire wage groups or subgroups. Since we have many representative unions, this Act determines when such a collective agreement is even valid (the signature of the majority of representative unions is required, and those unions that together represent employees in all wage groups, the total number of members is at least 15 percent of employees in the public sector, etc.) The regulation is complicated and opaque. There have been no disputes about this yet.

6. Dispute prevention and resolution and strike action – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

There is also no news in the area of strikes. The law is very old and would require urgent changes. However, to my great surprise, there has been no dispute before the Supreme Court for several years (I am not aware of such a dispute before other courts either) about the legality of a strike, even though there have been quite a few strikes (even very long strikes - for example, by doctors). Neither the Government of the Republic of Slovenia nor individual employers opt for judicial protection in such cases, but try to calm things down somehow. Employers (even representatives of the State) present their views in the media that the strike is illegal etc., but they do not enforce judicial protection.

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

I can say that most of our disputes concern the question of the validity of individual provisions of concluded collective agreements or the enforcement of these provisions. In one of the more recent cases, we took the position that even a group of workers who assert a clear group interest (even though they are in a different position with regard to their individual rights) can file a motion in a collective labor dispute and request an assessment of the validity of individual provisions of a company collective agreement concluded by the employer and representative trade unions.

In the last dispute we dealt with, the new management of our radio and television company published a unilateral decision in the Official Gazette to consider an annex to the collective agreement, which the previous management of the radio and television company had concluded with one of the representative trade unions shortly before, as null and void. The annex was very disadvantageous for the employer. This annex was concluded for a fixed period and, according to our law, cannot be terminated during its validity. It is clear that the new management of the employer cannot unilaterally interfere with the concluded collective agreement by declaring it null and void. The dispute before the court was initiated by the representative trade union, which signed an annex to the collective agreement with the previous management. The plaintiff requested that the unilateral decision of the employer to consider the annex null and void be declared invalid.

The basic problem of the dispute was whether to decide on the substance at all, since the unilateral decision of the employer did not have any legal effect in itself. Therefore, the question was whether there was even a legal interest in such a lawsuit. In such a case, a civil court would not allow a lawsuit due to lack of legal interest, since a statement by one of the contracting parties that they consider the concluded contract to be null and void does not in itself mean anything. What is more important are the consequences of such an act.

But the Supreme Court ultimately decided that there was a legal interest and that even in such a case, it was necessary to decide on the substance and clarify any uncertainties about whether such a unilateral decision of the employer could be effective.

► SWEDEN

Respondent: Lars Dirke (1-3) and Karin Renman (4-7), Judges, Labour Court

1. **Scope of freedom of association and the right to collective bargaining** – While Convention No. 87 applies in general to all workers and employers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, Convention No. 98, in addition to **reiterating this possibility of exclusion, establishes in Article 6 that it does not cover the public** servants engaged in the administration of the State.

In your country, are any categories of workers or employers excluded from the scope of freedom of association or the right to collective bargaining (e.g. managerial employees, police and armed forces, civil servants, judges, teachers, agricultural workers, platform workers...)?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

No. All categories of workers and employers have freedom of association and the right to collective bargaining.

2. **Court competencies and jurisdiction** – At the national level, which court is responsible for dealing with disputes relating to freedom of association or the right to collective bargaining? Who is entitled to bring such claims: individual workers or trade unions? Are there any specific rules regarding court composition or procedural requirements for these cases? Have any issues been raised recently in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The Labour Court. Trade unions are entitled to bring claims, not individual workers. There are no specific rules regarding court composition or procedural requirements in these cases.

3. **Protection against discrimination and interference** – Under Article 2 of Convention No. 98, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or by each other's agents or members in their establishment, functioning or administration.

In your country, how are anti-union discrimination and interference in workers' and employers' organisations regulated? Have any issues been raised in this regard, or are there any new or interesting developments?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Sections 7-9 of the Employment (Co-determination in the workplace) Act deal with right of association, which applies to both employers and employees. The right of association may not be infringed. Employers' or employees' organisations need not tolerate any infringement of the right of association that constitutes an infringement of its activities. Legal acts or provisions that constitute an infringement of the right of association are invalid. Employers' and employees' organisations are obliged to seek to prevent their members from taking any action that would infringe the right of association.

There is a Labour Court case from 2021, AD 2021 no 69, where one union took action against another union, demanding that an industrial action undertaken by the second union should be declared illegal. The plaintiff union allegedly was a so-called "yellow" union. The Labour Court rejected the claim on the basis that there are no legal provisions that aim at protecting one union from industrial action by another union, provided that the industrial action is for the purpose of obtaining a collective agreement with the employer. This case has sparked some debate, and it has been put into question whether Swedish law contains adequate safeguards against the occurrence and actions of "yellow" unions.

4. Freedom of association (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Right to organize, autonomy of organizations and non-interference by the authorities
- Right to establish organizations without previous authorization
- Right to draw up constitutions and rules and to elect representatives in full freedom
- Right of trade unions to organize their administration, and their activities in full freedom and to formulate their programmes

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

The freedom of association is dealt with in the Swedish constitution. It is the right of every citizen to join together for general or individual purposes (Chapter 2 Section 1 regeringsformen [RF]). Freedom of association can be limited by law, but only if it is necessary to serve purposes that are acceptable in a democratic society (Chapter 2, Section 12 RF). Freedom of association applies to the general public.

The positive right of association for employers and employees is protected in the Co-Determination in the Workplace Act (Section 7). It protects the right to belong to an organization of employers and employees, to exercise membership and to act for the organization. The right can be used for all labour market organizations. It is not required to have a collective agreement. A labour market organization does not need to be of a certain size. It is enough to form a non-profit association. This is done by at least two people deciding to adopt statutes and appoint a board. The association does not need to be registered.

A violation of the right of association exists if someone on the employer or employee side takes an action against one on the other side when he or she has exercised his right to association or with the aim of preventing him or her from exercising the right to association.

Co-Determination Act does not protect the negative right of association, i.e. the right to not be a member of a labor market organization, but the negative right of association is protected by the practice of the European Court of Justice. The European Convention applies as law in Sweden.

In Sweden, there is no registry of trade unions.

5. Right to collective bargaining (in general) – Are there any new trends or interesting developments relating to the following issues-?

- Definition and subjects of collective bargaining
- Recognition of trade union organizations and preferential rights – and rights of minority unions
- Principle of free and voluntary bargaining
- Freedom to decide the level of negotiation
- Principle of good faith

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

There are different types of negotiations.

One is contract negotiations. These take place when there are disputes of interest. Such claims normally aim for a collective agreement or other agreement.

Another kind of dispute negotiations concern legal disputes, where the parties have different views on how the law or an agreement should be interpreted.

Collaborative negotiations take place at the workplace on management matters. The employer normally has the final decision. The aim for these negotiations is for the employees to be able to influence the employer's decisions.

The employee organization has the right to negotiate with the employer and its organization regarding relations between the employer and the organization's member. The member must be or have been employed by the employer. The employer and its organization have the corresponding right to negotiate with an employee organization (Section 10 of the Co-determination Act).

Before the employer decides on a major change in its operations (e.g. decision to hand over the operation, appointing senior managers) or in working or employment conditions (e.g. reassignment of an employee), the employer must, on his own initiative, negotiate with an employee organization with which the employer has a collective agreement (Section 11 of the Co-determination Act).

If there is a collective agreement between the parties, the union can call for negotiations for an individual member (Section 12 of the Co-Determination Act).

If a question particularly concerns working or employment conditions for an employee who belongs to a trade union, where the trade union is not bound by a collective agreement with the employer, the employer is obliged to negotiate in the same way as according to Sections 11 and 12. If the employer is not bound by any collective agreement at all, he is still obliged to negotiate dismissal due to lack of work and transfer of business (Section 13)

In collective agreements, there are normally rules of the arrangements of negotiations.

The parties do not have to agree during a negotiation, but those who are called to negotiation must come and submit a reasoned proposal for a solution (Section 15 of the Co-determination Act).

- 6. Dispute prevention and resolution and strike action** – Are there any new trends or interesting developments relating to the collective dispute prevention and resolution or strike action?

This may include changes in voluntary procedures for dispute resolution, bodies intended to facilitate negotiations, regulation of the right to strike, dissolution and suspension of organizations, etc.

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: -

- 7. Others** – Have any other interesting issues relating to freedom of association and the right to collective bargaining been raised before the courts? Are there any new or interesting developments in this area that you would like to refer to?

Please refer to the relevant legal basis and explain, including references to applicable case law that may have significantly impacted this area.

Answer: -
