



**The right to strike in the
public sector
in
Uzbekistan**



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1. Legal basis

International level

Uzbekistan has ratified the following **UN instruments**¹:

- International Covenant on Civil and Political Rights (1995)
- International Covenant on Economic, Social and Cultural Rights (1995)

ILO instruments²:

Convention 87 – Freedom of Association and Protection of the Right to Organise

Ratified on 12 December 2016

Convention 98 – Right to Organise and Collective Bargaining

Ratified on 13 July 1992

Convention 154 – Collective Bargaining Convention, 1981 (No. 154)

Ratified on 15 December 1997

European level

Uzbekistan is not a member of the Council of Europe and has not ratified **the Revised European Social Charter of 1996**³ nor **the European Convention of Human Rights**.⁴

National level

Two articles of the Constitution of Uzbekistan⁵ enable citizens to mobilize, to organize and to participate in social movements and public activities:

Article 33: “Citizens shall have the right to engage in public life by holding rallies, meetings and demonstrations in accordance with legislation of the Republic of Uzbekistan. The bodies of authority shall have the right to suspend or ban such undertakings exclusively on the grounds of security.”⁶

Article 34: “Citizens of the Republic of Uzbekistan shall have the right to form trade unions, political parties and other public associations, and to participate in mass movements. No one may infringe on the rights, freedoms and dignity of individuals constituting the minority opposition in political parties, public associations and mass movements, as well as in representative bodies of authority.”⁷

Applicable laws

The Labour Code (1995)⁸ does not define or regulate the right to organize and to participate in a strike or any other types of social movements, like protests, lockouts, rallies, demonstrations, street marches, etc.

Article 260 of the Labour Code states that individual labour disputes can be solved by a commission on labour disputes and/or through the courts.⁹ Article 262 stresses that for solving individual labour disputes, within the frame of a “*collective bargaining agreement*,

*and if it is not adopted – by an agreement between an employer and trade union or other respective organization representing workers, a commission on labour disputes should be established.*¹⁰ Article 281 states that collective labour disputes about the implementation of labour legislation, collective bargaining agreements and other documents, which were agreed between an employer and trade union or other respective organizations representing workers, should be solved by a court¹¹.

The Law on Trade Unions¹², likewise, neither defines nor regulates the right to organize and to participate in a strike and any other types of social movements. Article 35 underlines that trade unions have the right to participate in the operation of commissions on labour disputes and in solving collective labour disputes.¹³ Article 45 states that trade unions can represent workers and protect their socio-economic rights and interests in the courts and other institutions.¹⁴

Current legislation (Trade Unions Code, Labour Code, Decree on Regulations of Public Activities) neither defines nor regulates strike action, neither does it prohibit it.

The Administrative Liability and Criminal Codes (being amended as at April 2021) impose sanctions for organizing and participating in illicit public activities such as public assemblies, rallies, street marches and demonstrations, including unauthorized strikes (see section 6).

The Decree of the Cabinet of Ministers (#210, 29 April 1992), “On Organizing the Work over Revising Legislative Documents of the Former USSR”¹⁵ and the Decree of the Supreme Council (#481-XII, 4 January 1992), “On the Ratification of the Agreement and Protocol Establishing the Commonwealth of Independent States”¹⁶ underline that prior to the adoption of the respective regulations by the Republic of Uzbekistan, laws of the former USSR remain applicable in the territory of Uzbekistan, unless they contradict the Constitution and national legislation.

Since there is still no legislation regulating public activities, including assemblies, rallies, street marches, demonstrations and strikes, it can be surmised that, as of April 2021, the Decree of the Supreme Soviet Presidium of the USSR (№ 9306-XI, 28 July 1988), “On the Regulation of Organizing and Holding Assemblies, Rallies, Street Marches, and Demonstrations in the USSR”¹⁷ and the Code of the USSR N-2179-1 from May 20, 1991, “On the Process of Regulating Collective Labour Disputes (Conflict)”¹⁸ remain applicable¹⁹ in Uzbekistan.

According to the Soviet law № 9306-XI²⁰ and the Decree of the Cabinet of Ministers #205 from 2014, “On Measures for Further Improvement of Regulations of Organizing and Holding Public Activities”²¹, organizers of public activities have to get permission from the local authority to organize an event. However, there are indications that attempts to organise picketing in Tashkent have been cancelled by the mayor²² on the basis that there are no regulations on organizing and conducting public activities.

As regards, the implementation of the Code of the USSR N-2179-1 from 1991, “On the Process of Regulating Collective Labour Disputes (Conflict)”, the government of Uzbekistan refers to the actual labour legislation on settling collective labour disputes, but it does not provide any further details (See section 7).

As at April 2021, discussions were continuing over a new Labour Code and Code on Rallies, Assemblies and Demonstrations of Citizens. The previous two drafts of the Labour Code (from 23 September 2019²³ and 14 October 2019²⁴) had articles on the right to strike, including definition, regulations, procedures, restrictions and responsibilities of the parties. However,

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all these articles were completely removed from the latest version²⁵, published for public discussion from 16 September to 1 October 2020.

As of April 2021, the latest draft of the Code on Rallies, Assemblies and Demonstration of Citizens²⁶ can be considered the only legal document for organizing and holding social movements but it does not define a strike, lockout or protest (See section 2).

2. Who has the right to call a strike?

Neither the Labour Code (1995)²⁷ nor any other legislation defines or regulate the right to organize and to participate in a strike. Article 9 of the Code on Rallies, Assemblies and Demonstrations of Citizens (which was under discussion as at April 2021)²⁸ underlines that the organizer of rallies, assemblies and demonstrations can be an individual or a group of individuals, citizens of Uzbekistan, at the age of 18 years as well as non-governmental organisations registered in Uzbekistan.

3. Definition of a strike

The terms 'strike' or 'lockout' or 'protest' are not mentioned in the legislation of Uzbekistan. Currently, a new Labour Code is being discussed and earlier versions of the draft defined the term 'strike' as *"full or partial refusal of workers to perform job duties with the purpose to solve socio-economic and professional demands of workers in a collective labour dispute with an employer."*²⁹ However, this and related articles have been removed from the latest version³⁰, published in September 2020.

The draft Code on Rallies, Assemblies and Demonstrations of Citizens can be considered as the only legal document defining and regulating social mobilization and its types. The latest version³¹ was published for public discussion from 18 August to 2 September 2020 and it defines six types of social mobilization: rally, assembly, demonstration, street march, picketing, and flash mob. All six types of social mobilization are primarily described as a mobilization of people to increase awareness of common social issues. The provided 6 types of social mobilization disable full or partial refusal of workers to perform job duties with the purpose to solve socio-economic and professional demands of workers, particularly due to their procedural requirements (See section 5).

4. Who may participate in a strike?

There is no legislation on strike action and so the closest relevant regulations are in Article 11 of the Code on Rallies, Assemblies and Demonstrations of Citizens indicates that citizens of Uzbekistan above 16 can partake in rallies, assemblies and demonstrations³². Participants can: “take part in discussions and decision-making process on collective actions according to the purposes rallies, assemblies and demonstrations” as well as “accept and direct requests of the public to local executive authorities, state institutions and organizations.” Participants have to comply with the regulations of the current Code as well as to follow legal requirements of the local authorities, police, national guard and organizer.

5. Procedural requirements

As there is no legislation on strikes or their procedures, the most relevant regulations are in Article 13 of the Code on Rallies, Assemblies and Demonstrations of Citizens. This states that organizer(s) or representative(s) of organizers has to submit an application to local executive authorities no later than 15 working days prior to the planned rally, assembly or demonstration. The application should indicate the type of public activity, its purpose, location and march plan, date, preliminary number of participants, list of public-awareness materials, detailed information about organizer(s) and the source of financing.³³

The local municipality has 10 working days to consider the application with consultations with the Ministry of Internal Affairs, National Guard and other relevant ministries and agencies.³⁴

Public activities can be organized only in special designated places, no closer than 300 metres from a range of buildings and sites including government buildings, education facilities, transportation hubs, religious sites, media, diplomatic missions and international organizations, cultural, historical and memorial monuments. Public activities can be organized for a maximum of two hours and only during working days from 10:00 am to 18:00 pm.

A public event can be suspended if it poses a threat to health, undermines rights and freedoms of people or fails to comply with other regulations. It can also be cancelled if an organizer or participant undertakes illicit actions and violates any regulations or if it undermines public security.³⁵

Article 33 of the Constitution also emphasizes that “the authority shall have the right to suspend or ban such undertakings exclusively on the grounds of security.”³⁶

6. Legal consequences of participating in a strike

As there is no legislation on strike action, this section focuses on the law regarding demonstrations and similar activities.

Participation in lawful protests

Article 4 of the Code on Rallies, Assemblies, Demonstrations of Citizens underlines that the primal principles of public activities are: prioritizing rights, freedoms and interests of citizens; legitimacy, voluntariness, peacefulness, and mutual responsibility of the parties.³⁷

According to the type of public activity and number of participants, local municipality (city hall) can appoint its representative to assist in organizing rally, assembly and demonstration.³⁸

Organizer of a public activity has the following rights: hold a public activity only after receiving a permission from local municipality; conduct preliminary agitation; use audio and visual information materials during an event; and request participants to follow the regulations of the current Code and public order.³⁹

Law enforcement can restrict access to a public activity if the number of participants exceeds a particular number of people who can be located at the territory of a public activity.⁴⁰

After receiving permission to organize a public activity and prior to the event itself, organizer/s and participants can conduct preliminary agitation by using audio and visual materials.⁴¹

Participation in an unlawful protest

Article 5 of the Code on Rallies, Assemblies, Demonstrations of Citizens underlines that it is prohibited to organize and conduct public activities with the purpose of: “overthrowing the constitutional order, inciting national, racial and religious hatred, propaganda of violence and warfare shall be prohibited”; **“blocking activities of the state institutions, organizations, enterprises”**; “spreading false information humiliating human dignity and reputation”; using transportation; wearing mask and other means making people’s identification difficult as well as using all types of weapon.

It is prohibited to organize public activities: “the day before the beginning and closure of elections of the president, deputies of the legislative chamber as well as deputies of district, regional, and city the council”; “the day before conducting a referendum and before the closure of polls”; and “during major international events at the state level based on the decree of the President and the Government of Uzbekistan”.⁴²

There are restrictions on who can organize a public activity⁴³ and public activities are forbidden if they are funded and supported by foreign states, international NGOs and organizations.⁴⁴

Two articles of the Administrative Liability Code⁴⁵ state:

- article 201 – violating regulations on organizing or conducting public assemblies, rallies, street marches or demonstrations shall incur a fine from 60 to 80 times the minimum wage or administrative detention for up to 15 days⁴⁶;
- article 202 – supporting unauthorized public assemblies, rallies, street marches or demonstrations by providing premises or other property (transportation, equipment,

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etc.), or creating conditions for holding unauthorized public events shall incur a fine from 50 to 100 times the minimum wage for citizens and from 70 to 150 times the minimum wage for public servants⁴⁷

Sanctions according to the Criminal Code⁴⁸ (being amended as at April 2021):

- article 217 – violating regulations on organizing and conducting public assemblies, rallies, street marches or demonstrations committed by an organizer after an earlier administrative penalty for the same acts – shall incur a fine equal to 200-300 times the minimum wage or compulsory community service work for up to 360 hours or restriction of freedom from 1 to 3 years or imprisonment for up to 3 years⁴⁹;
- article 218 – leading a prohibited strike, equivalent to obstructing the operation of enterprise or organization under conditions of a state of emergency – shall incur a fine to 50-100 times the minimum wage or restriction of freedom from 2 to 5 years or imprisonment for up to 5 years.⁵⁰

7. Case law of international/European bodies

International Labour Organization

- **The Committee on Freedom of Association (CFA)** – no cases available on Uzbekistan⁵¹
- **The Committee of Experts on the Application of Conventions and Recommendations (CEACR)**⁵²

Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021)⁵³

In relation to the implementation of the Abolition of Forced Labour Convention, 1957 (No. 105), particularly, Article 1(d), sanctions involving compulsory labour for participation in strikes, the Committee underlines that “section 218 of the Criminal Code punishes with imprisonment the participation in prohibited strikes under conditions of a state of emergency. It recalled that a suspension of the right to strike enforced by sanctions involving compulsory labour should be limited to the need to cope with cases of force majeure in the strict sense of the term – namely, when the existence or well-being of the whole or part of the population is endangered – provided that the duration of the prohibition is limited to the period of immediate necessity.”

The Committee also requests to provide all the information on any court cases in relation to the implementation of section 218 of the Criminal Code to ensure that the right to peaceful participation in strikes is not suppressed.

This followed the same comment in 2016 (**Direct Request (CEACR) - adopted 2016, published 106th ILC session (2017) in 2016**⁵⁴).

Direct Request (CEACR) - adopted 2019, published 109th ILC session (2021)⁵⁵

In relation to the implementation of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Uzbekistan in 2016, the Committee requested further information on implementation of the convention, continued to take notes on undergoing reforms in the labour legislative sector and encouraged the government to involve social partners in the process of labour reforms.

Observation (CEACR) - adopted 2018, published 108th ILC session (2019)⁵⁶

In relation to implementation of Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee requested the government to stop suppressing independent trade unions, to end control of the Federation of Trade Unions of Uzbekistan and to stop blocking activists in their labour monitoring actions in the country.

The Committee called on the government to undertake Labour reforms and to ensure that if “there are no trade unions at the enterprise, the branch or the territory, the right to bargain collectively can be conferred on other workers’ representatives.”

As regards collective labour disputes, “The Committee recalls that it had previously noted the Government’s indication that it was working on a draft law which would regulate collective labour disputes. The Committee notes the Federation of Trade Unions of Uzbekistan’s (FPU) indication that the law in question has not been adopted. The FPU further informs that together with the Chamber of Commerce and Industry of Uzbekistan and in consultation with the Ministry of Labour and Social Protection, recommendations on the organization of

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activities of commissions on labour disputes were adopted in the beginning of 2015. The Committee requests the Government to provide a copy thereof.”

The Committee commented on the same aspects in its **Observation 2016 (CEACR) - adopted 2016, published 106th ILC session (2017)**⁵⁷:

In relation to the promotion of collective bargaining, it is important to ensure that the labour law clearly states that if “there are no trade unions at the enterprise, the branch or the territory, the right to bargain collectively can be conferred on other workers’ representatives”;

“The Committee had previously requested the Government to provide the relevant legislative texts establishing the procedure for settlement of collective labour disputes, as referred to in sections 33 and 281 of the Labour Code. The Committee notes the Government’s indication that no legislation providing for the process of settling collective labour disputes (interest disputes) has been adopted and that pursuant to the Decision of the Supreme Soviet of the Republic of Uzbekistan of 4 January 1992, on the ratification of the Agreement and Protocol Establishing the Commonwealth of Independent States, before the adoption of relevant legislation, laws of the former USSR shall apply on Uzbek territory, provided that they do not contravene the Constitution and the legislation of the country. The Government points out that pursuant to the Law of the USSR on the process of settling collective labour disputes (1991), if a conciliation committee and labour arbitration commission have not been able to resolve the differences between the parties, a trade union has the right to use all other means provided for by the law to satisfy its stated demands, including total or partial suspension of work, including strikes. The Committee further notes that pursuant to section 5 of the Law, the labour arbitration decision is binding only if the parties have agreed on the compulsory nature of the decision beforehand.”

European Social Charter⁵⁸

Conclusions on Article 6§4 of the European Committee of Social Rights (ECSR) – there are no conclusions on Uzbekistan.

European Court of Human Rights⁵⁹ – there are no cases on Uzbekistan.

8. Recent developments

As of April 2021, the government of Uzbekistan was undertaking numerous reforms covering all sectors of socio-economic life, including labour relations and a new Labour Code. However, the right to strike was removed from the latest version. The same applies to the latest version of the Code on Rallies, Assemblies and Demonstrations of Citizens which says nothing about the right to strike and remains relatively repressive toward organizing and holding public activities, like street marches, rallies and demonstrations.

There is legislation that indicates that laws of the former USSR apply on Uzbek territory, if there is no relevant Uzbek legislation and they do not contravene the Constitution and the legislation of the country. The current government does not confirm or deny this, but it rather refers to relevant legislative documents adopted since independence.

The only recent reported case of a strike was in August 2019 when miners of the Shargunkumir enterprise in the Surkhandarya region took action to protest against poor working conditions and low pay⁶⁰. According to media reports, a special commission, consisting of the enterprise managers and trade union and others, studied the case and nine people who were deemed responsible for poor working conditions were fired⁶¹.

According to the 2020 Human Rights Watch Report, over 50 political prisoners were released in the period 2016-2019⁶². Among them Fahriddin Tillaev, a founder of an independent trade union on protecting the rights of workers and labour migrants⁶³, who was imprisoned in 2014 and released in May 2018.⁶⁴ However, independent civil activism remains under government supervision and freedom of assembly remains heavily restricted with trade unions under tight government control.⁶⁵

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