

Unlawful Strikes and Their Legal Consequences

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Abstract: Strikes, as a form of collective labor action, are constitutionally protected in many countries and internationally recognized as a legitimate means of defending labor rights. However, such rights are not absolute. This article examines the concept and legal implications of unlawful strikes in the context of the legal system of Uzbekistan. While the Labor Code of Uzbekistan provides for the resolution of collective labor disputes, current legislative frameworks are lacking clear definitions and procedures concerning unlawful strikes. Drawing upon international legal instruments such as ILO Convention No. 87 and comparative legislation, this paper identifies the categories of labor sectors where restrictions or outright bans on strikes are imposed. It also explores the consequences of participating in or organizing unlawful strikes, including criminal liability under Uzbek law. The article concludes by proposing legal reforms to bring national legislation in line with international labor standards, while maintaining public order and the continuous operation of essential services.

Keywords: unlawful strike, labor law, legal consequences, international labor standards, Uzbekistan, ILO Convention No. 87, public service, essential services.



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Introduction. The right to strike is widely recognized as a key component of labor freedoms and democratic participation. It serves as a collective mechanism for workers to express dissatisfaction with working conditions and demand improvements in wages, benefits, and employment rights. In international legal doctrine, particularly through the International Labour Organization (ILO), the right to strike is protected under Convention No. 87 concerning freedom of association and the protection of the right to organize. However, this right is not without limitations.

In Uzbekistan, the legal regulation of strike actions remains incomplete and ambiguous. While the Constitution ensures fundamental labor rights, including freedom of association and the formation of trade unions, it does not explicitly regulate the conditions and procedures for lawful or unlawful strikes. Furthermore, the Labor Code of Uzbekistan does not clearly define the legal framework governing the organization and conduct of strikes. As a result, the assessment and handling of strike actions—especially those deemed unlawful—lack consistency, transparency, and alignment with international legal standards.

This article explores the notion of unlawful strikes and the legal consequences that follow under Uzbekistan's legal system. It provides a doctrinal and comparative analysis of international practices, identifying areas where Uzbekistan's legislation diverges from global standards. The paper aims to offer recommendations for harmonizing national law with international norms, balancing workers' rights with the state's interest in preserving public order and continuity of essential services.

Legal Nature of the Right to Strike. The right to strike is internationally recognized, notably by the International Labour Organization (ILO) in Convention No. 87 (1948), which affirms the freedom of association and the right to organize. Nevertheless, the ILO acknowledges that this right may be subject to restrictions in specific contexts, such as essential public services.

Uzbekistan's Constitution guarantees freedom of association and the right to form trade unions (Article 34), but the regulation of strikes, particularly unlawful ones, is not clearly stipulated in the Labor Code.

Categories of Unlawful Strikes. Drawing from the article by Rahimqulova (2024), five key categories of restrictions on strike actions can be distinguished in international and domestic practice: In sectors critical to national security and emergency response (e.g., military units, civil defense, disaster relief), strike actions are completely prohibited. These limitations are justified by the need to maintain national stability and prevent critical disruptions.

Public Administration and Government Services. Government officials and employees in state agencies may face partial or total bans on strike actions. Some legal systems, such as that of France and Japan, allow arbitration mechanisms to resolve such labor disputes. In Uzbekistan, labor arbitration mechanisms remain weakly institutionalized.

Essential Public Services. Workers in healthcare, energy, water, gas supply, and public transport are often subject to restrictions due to the essential nature of their services. Kazakhstan's Labor Code Article 176, for example, prohibits strikes in such contexts. Uzbekistan's legislation lacks such sector-specific guidance. Many jurisdictions require a minimum level of services to be maintained during a strike to avoid public harm. Failure to pre-negotiate and implement a minimum service agreement can render a strike unlawful. This mechanism is not sufficiently developed under Uzbek law.

Political Strikes. Political strikes, which aim to influence state policy or political institutions rather than employment conditions, are generally banned in democratic countries. States such as Germany, Japan, and Turkey strictly prohibit political strikes. Uzbekistan, although not explicitly banning political strikes in its labor laws, criminalizes actions that disrupt enterprises during a state of emergency.

Unlawful strikes can entail civil, administrative, and criminal liability. In Uzbekistan:

- *Civil Consequences:* An employer may dismiss employees for participating in illegal strikes under general labor discipline rules.
- *Administrative Consequences:* Organizers may be subject to fines or administrative penalties.
- *Criminal Consequences:* Article 244-1 of the Criminal Code of Uzbekistan penalizes obstruction of enterprise operation during emergencies or unauthorized leadership of a strike, classifying it as a socially dangerous act.

However, the lack of clear criteria to determine the legality of strikes leaves room for arbitrary enforcement.

International Norms vs. National Legislation. Uzbekistan ratified ILO Convention No. 87 but has yet to incorporate its principles fully into domestic legislation. The country must balance its

obligations under international law with domestic public interest. This includes establishing a clear legal framework that defines:

- Legitimate strike procedures
- Essential services and sectors
- Minimum services obligations
- Due process rights of striking workers

Comparative Practices. An examination of global practices provides a useful framework for understanding how various jurisdictions balance the right to strike with the need for legal order and protection of essential services.

Germany. In Germany, the right to strike is constitutionally protected, but it is strictly limited to disputes over collective bargaining agreements. Political strikes or solidarity strikes are not considered lawful. The German Federal Labor Court has maintained that a strike is only lawful if it aims at achieving a collective labor agreement and is conducted by a trade union. Additionally, there are legal requirements to maintain minimal services in sectors such as healthcare and transport.

France. France permits strikes across a broad range of sectors but imposes strict procedural requirements. Workers must provide advance notice, and certain sectors—such as air traffic control, healthcare, and public safety—are subject to mandatory minimum service levels during strikes. The French model offers a balance between protecting the right to strike and safeguarding the public interest.

South Korea. South Korea enforces tight restrictions on strikes, especially in the public sector. Under the Trade Union and Labor Relations Adjustment Act, strikes are only permitted after completing mediation procedures. Public sector strikes are generally prohibited, and political strikes are illegal. Violators may face criminal prosecution, as seen in multiple high-profile cases involving teachers and civil servants.

Turkey. Turkey's Constitution allows for strike actions but excludes public servants and employees in essential services from this right. The legislation specifies sectors in which strikes are completely prohibited—such as fire services, funeral services, and national defense. Like Uzbekistan, Turkish law criminalizes certain forms of unauthorized strikes.

Kazakhstan. Kazakhstan's Labor Code clearly delineates which types of strike actions are considered unlawful. Article 176 of the Labor Code prohibits strikes in life-threatening or hazardous industries, including emergency medicine, electricity supply, gas, water services, and transportation. These clear statutory provisions provide legal certainty and a balance between labor rights and public safety. This comparative analysis shows that most legal systems impose restrictions on strikes in critical sectors, but they also provide detailed legal frameworks that define the legality of such actions. Uzbekistan, by contrast, lacks such comprehensive codification, leading to unpredictability and potential rights violations.

Policy Recommendations. To ensure both the protection of workers' rights and the stability of essential public services, Uzbekistan should adopt a range of targeted legal reforms. These policy recommendations aim to modernize the national labor law framework while aligning it with international obligations and best practices.

Define Legal Parameters for Strikes. Uzbekistan must establish a clear and precise definition of a "lawful strike" in its Labor Code. This definition should include the procedural steps required to initiate a strike, including prior negotiation, mediation or arbitration efforts, and minimum advance notice requirements. Unlawful strikes should also be specifically categorized and their consequences clearly outlined. A legislative list of essential services (e.g., healthcare, public safety, emergency response, utilities) should be adopted. For workers in these sectors, the right to

strike could be limited or replaced with binding arbitration or conciliation mechanisms to resolve disputes. This would ensure continuity of critical services while preserving workers' avenues for redress.

Institutionalize Minimum Service Requirements. Before authorizing a strike, trade unions and employers in essential sectors should be required to negotiate a minimum service agreement. This practice, widely accepted in countries like France and Spain, helps mitigate the risks posed by labor disputes without undermining the right to strike. Given the sensitive nature of political strikes, Uzbek law should clearly distinguish between economic strikes and politically motivated actions. While the latter may fall outside labor dispute frameworks, their prohibition should not undermine democratic rights such as freedom of expression and peaceful assembly. Criminal sanctions for unlawful strike actions, especially those targeting organizers or participants, should be revised to ensure proportionality and compatibility with international human rights norms. Criminal law should be applied only in cases of violent conduct or deliberate disruption of vital public functions during emergencies. Labor dispute resolution mechanisms, such as independent arbitration panels and labor courts, should be enhanced. These institutions should be empowered to assess the legality of strikes in a transparent and fair manner, ensuring due process for both employers and employees.

Conclusion. The evolving labor landscape in Uzbekistan demands a coherent and modernized approach to regulating strikes. While the right to strike remains a core labor freedom, its exercise must be guided by clear legal principles that ensure public interest and industrial peace.

Currently, the absence of a well-defined legal framework on lawful and unlawful strikes generates uncertainty and legal vulnerability for both workers and employers. Criminal sanctions are sometimes imposed in the absence of specific statutory prohibitions, which contradicts international labor standards and undermines rule-of-law principles.

By drawing from comparative legal models and aligning with ILO standards, Uzbekistan has the opportunity to revise its labor legislation to reflect a balanced and rights-respecting framework. Protecting essential public services, preserving social order, and upholding democratic labor rights are not mutually exclusive goals. Rather, they can and should coexist within a just and transparent legal system.

REFERENCES

1. European Court of Human Rights. (2009). *Enerji Yapi-Yol Sen v. Turkey*, App. No. 68959/01.
2. International Labour Organization. (1948). *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*. Retrieved from <https://www.ilo.org>
3. Kazakhstan Republic. (2015). *Labour Code of the Republic of Kazakhstan*, Article 176.
4. Rahimqulova, L. (2024). *Noqonuniy ish tashlash va uning huquqiy oqibatlari*. Tashkent State University of Law.
5. Republic of France. (2016). *Labour Code*. Retrieved from <https://www.legifrance.gouv.fr>
6. Republic of Germany. (2023). *Federal Labour Court Decisions*. Retrieved from <https://www.bundesarbeitsgericht.de>
7. Republic of Korea. (2011). *Trade Union and Labor Relations Adjustment Act*. Retrieved from <https://elaw.klri.re.kr>
8. Republic of Turkey. (2022). *Labour Law No. 4857*. Retrieved from <https://mevzuat.gov.tr>
9. Uzbekistan Republic. (1994). *Constitution of the Republic of Uzbekistan*. Retrieved from <https://lex.uz/docs/20596>
10. Uzbekistan Republic. (1994). *Criminal Code of the Republic of Uzbekistan*. Retrieved from <https://lex.uz/docs/111457>