

WEAKENING THE LAST RESORT: THE UK NEWLY PROPOSED MINIMUM SERVICE LEVELS BILL TO WEAKEN THE LEGAL RIGHT TO STRIKE

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Abstract

In early 2023, the government of the United Kingdom suggested new minimum service level legislation, putting the country in line with some other European countries such as France, Spain, Italy, and Ireland. Some countries do have minimum service levels criteria, however the method they do so differs from what is recommended in the United Kingdom in many ways. According to the UK government, the International Labor Organization (ILO) promotes minimum service levels. The ILO acknowledges that minimum service standards may be justified in some circumstances, such as when lives are at stake or when providing "basic" public services. It also states that minimum service levels should be established in conjunction with trade unions. This paper seeks to examine legislation that highlights the right to strike and the impossibility of putting any limits, as this violates all local and international rules. In addition, the study intends to examine the government's point of view and the grounds on which it bases its reliance on the legality of using the minimum work system as a figure for the working days lost during the strike in essential services.

Keywords: UK, Minimum service Levels, Essential services.

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INTRODUCTION

In January 2023, the government proposed the Strikes (Minimum Service Levels) Bill, which would grant ministers the authority to set minimum service levels in six sectors, notably health, transportation, and education. In the event of a strike in England, Wales, or Scotland, the Strikes Minimum Service Levels (MSLs) Bill would empower ministers to issue rules outlining the bare minimum of service that must be provided in certain departments of the public sector.¹ Employees and trade unions would lose some of their legal safeguards from being sued or fired if they did not comply with these rules.² Legislatively mandated restrictions will apply to the following fields: health services, fire and rescue services, education services, transport service, decommissioning of nuclear installations and, management of radioactive waste and spent fuel and border security.³

The objective of this bill is to reduce the adverse impact that strikes have on people's daily life and ability to provide for their families.⁴ It aims to find a middle ground between unions' and members' right to strike and the public's requirement to have access to essential services. This is achieved by

¹ Tobin, James "Strikes (Minimum Service Levels) Bill HL Bill 97 of 2022-23," House of Lords, Library Briefing, p.1 (13 February 2023).

² *Ibid.*

³ The Strikes (Minimum Service Levels) Bill 2023, s. 234B (4).

⁴ A new law that affects strike action went into effect last year. On July 21, 2022, a new regulation called the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022 went into effect (the "Agency Amendment Regulations"). It eliminated the ban on companies using agency workers to replace striking staff.

allowing the government to implement basic levels of service for essential industries even during strike days.⁵

The goal of the multi-sectoral Minimum Service Levels (MSL) Bill is to strike a balance between ensuring that people may continue to go to work, get the care they need, and go about their everyday lives even if workers' actions have shut down essential services. For areas where MSLs are enforced, customers should expect a higher standard of service with fewer instances of subpar or nonexistent service. This will aid in securing the public's safety and protecting them from disproportionate dangers.⁶

In the UK, employees have the right to strike if they feel mistreated by their employer.⁷ It is a final resort for employees who are upset with their employer. Industrial action is meant to be financially and economically disruptive to an employer so as to encourage that person to negotiate a resolution to the underlying conflict with the union (s). Employees that participate in industrial action will incur additional costs in the form of lost wages. Employer repercussions can also be a problem for them (e.g., loss of bonus, withdrawal of fringe benefits, etc.).⁸

The Business Insights and Conditions Survey (BICS) results from 2022 provide evidence of the widespread effect that strikes will have on firms in the coming year. Up from 9.9% in August, 12.6% in September, and 12.5% in October, 15.6% of businesses reported being impacted by strike action in November. As a result of the strikes in November, 19.7 percent of the businesses surveyed (3.1% of all businesses) reported being impaired in some way. This is up from 3.0 percent (3.4% of all businesses) in October, 3.4 percent (3.5% of all businesses) in September, and 2.4 percent (2.5% of all businesses) in August.⁹ According to the ONS Labor Disputes Survey and the annual number of industrial action ballots, only few of the businesses affected by strikes were truly facing industrial action from their employees. Based on projections from the Office for National Statistics (ONS), there were about 2.77 million businesses in 2022 (using the Inter-Departmental Business Registration as the sampling frame for BICS).¹⁰ Over 429,000 businesses fell victim to the strikes in November.¹¹

If the Bill is signed into law, the Secretary of the Department of Business, Energy, and Industrial Strategy (BEIS) would have the authority to mandate minimum service levels if such levels cannot be agreed upon freely or if voluntary service levels have been agreed upon but are not being met. If there is a strike, businesses in those industries will need to know which of their workers are essential to keeping essential services running. Work notices would be used to convey this information to the appropriate labor organization(s).

1. PROBLEM

The issue is that strike action by unionized workers is likely to result in adverse externalities because it prevents employers from providing all of the services (such as education, transportation, and healthcare) that they normally would, putting the lives and livelihoods of the general public and other businesses at risk. Nonetheless, the negative externalities of industrial action can have far-reaching effects on the economy and the population at large for some public services. Thus, does the government has the power

⁵ Strikes (Minimum Service Levels) Bill Impact Assessment, p.1. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf.

⁶ Strikes (Minimum Service Levels) Bill Impact Assessment, p.1. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf.

⁷ GOV.UK, Taking part in industrial action and strikes, <https://www.gov.uk/industrial-action-strikes/your-employment-rights-during-industrial-action>. (Accessed on Feb 23, 2023).

⁸ Strikes (Minimum Service Levels) Bill Impact Assessment. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf.

⁹ Business insights and impact on the UK economy - Office for National Statistics (ons.gov.uk). Available at: [UK business: activity, size and location - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/business-and-productivity/business-activity/size-and-location)

¹⁰ Labour market overview, UK Statistical bulletins - Office for National Statistics (ons.gov.uk)

¹¹ Strikes (Minimum Service Levels) Bill Impact Assessment p. 6. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf.

to punish strikers, and the employer has the right to so or fire employees who engage in this type of strike?

2. RESEARCH METHOD

Normative legal research takes a variety of forms, including those based on the law itself, on concepts, and on specific cases. The information was gathered through a literature review, and it consists of secondary data in the form of primary, secondary, and tertiary legal sources, all of which were subjected to qualitative analysis with methodical analysis. When laws are interpreted in a structured manner, they are understood in the context of the entire body of legislation.

3. DISCUSSION

1. This Bill and The Direct Opposition to Existing Domestic and International Regulations

Workers fear that their right to strike will be restricted if the bill becomes law. The strike would be seen as a violation of the law, giving the government the ability to punish the workers. Secondly, in the event that this legislation is enforced, employers will be able to sue their employees or terminate their employment contracts because doing so is illegal.

The article claims that all relevant international, European, and domestic laws and treaties, including those adopted by the United Kingdom (such as the United Nations and the International Labor Organization), and judicial decisions, are in direct conflict with the proposed bill. To begin, the right to strike is an inalienable human right that cannot be limited in the name of complying with a local law or any other law.

In article 5 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), it states that “no restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.”¹² Article 8 of the same Covenant states that the right to strike is protected as long as it is exercised in accordance with local laws.¹³

Furthermore, strikers typically behave themselves peacefully, which is a clue that this strategy is employed as a substitute for armed groups. The International Covenant on Civil and Political Rights affirmed that the freedom of assembly in a peaceful setting is guaranteed. This right is not subject to any limitations other than those mandated by law and required in a democratic society to ensure national or public security, law enforcement, civil security, the safeguarding of public health and ethics, and the safeguarding of the liberties and rights of others.¹⁴ In addition, the Convention on Freedom of Association and Protection of the Right to Organize emphasizes the equal right of workers as well as employers to assembly. This means that employers can exercise the right to strike, and at the same time, the state protects this right, being neutral by not preventing workers from the right to strike and allowing employers to exercise this right confirmed by this convention.¹⁵ As for the purpose of Convention No. 98 was to empower trade unions so that they could better represent their members and advocate for them against employer and government efforts to curtail their rights.¹⁶ However, in the Labour Relations (Public Service) Convention, it goes beyond just forbidding authorities from restricting the right to strike, as it also emphasizes the complete autonomy of the striking workers and the importance of state protection of this freedom.¹⁷

At the European level, the European Social Charter (ESC)¹⁸ gives both employees and employers the right to go on strike if either failed to abide by the terms of the agreement made between them.¹⁹ As for the Human Rights Act of 1998, the right to strike is included in it as is the worker's freedom to organize politically through his or her choice of a political party or trade union. The ESC, on the other

¹² Article 5(2) of the international Covenant on Economic, Social and Cultural Rights (ICESCR).

¹³ Article 8(1) (d) of the international Covenant on Economic, Social and Cultural Rights (ICESCR).

¹⁴ Articles 21&22 of the International Covenant on Civil and Political Rights (ICCPR).

¹⁵ Article 11 of the Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise.

¹⁶ Article 2 of the Convention No. 98 Right to Organise and Collective Bargaining Convention, 1949.

¹⁷ Articles 4&5 of the C151 - Labour Relations (Public Service) Convention, 1978 (No. 151)

¹⁸ ESC, Report of the Committee of Experts 2002.

¹⁹ Article 6(4) of the European Social Charter (European Treaty Series – No. 35).

hand, declares that no individual or group has the authority to coerce another person into participating in a protest, a labor union, or a political party against his will.²⁰

The subject of industrial action is addressed in a wide range of statutes throughout the United Kingdom.²¹ Nonetheless, the legal foundation for the right to strike can be found in precedents set by the courts. In case law on industrial action, one approach holds that a strike is a breach of the contract of employment, allowing the employer to terminate the contract of the striking employee. This view is supported by the decision in *Simmons v. Hoover Ltd*, which states that there is no common-law principle of suspension of the contract of employment by strike notice.²² In the second place, we have the tort law case of *OBG Ltd v Allan*, which establishes the rules for culpability in workplace disputes.²³ Nonetheless, the court still seems weak, hesitant, and swayed by politics²⁴, and its decisions continue to be poorly reasoned and scarcely consistent.²⁵

More importantly, collective bargaining in the United Kingdom is voluntary; hence, there is no set process for coordinating it with the law. Collective bargaining agreements are negotiated primarily at the company level and infrequently at the industry level. Collective agreements are "binding in honor only," although their terms are usually integrated into individual employment contracts. Workers' rights to strike or other forms of industrial action can only be limited by individual contracts if they comply with a number of statutory requirements. These include being in writing, being incorporated into the individual contract, being easily accessible during working hours, and having 'independent' trade unions as contracting parties.²⁶ Collective actions such as strikes, overtime prohibitions, and refusing to do particular jobs can result from labor disputes.²⁷ Conflicts like these arise when bosses refuse to discuss working conditions with their staff. There is no denying that the length and aftermath of the collective action cause monetary losses for the company and inconvenience third parties such as the public.²⁸ For the capital to satisfy the workers and regain power, it would have to accept the strikers' new requirements, even though doing so would cause a crisis in profitability.²⁹ In addition, the idea of valid industrial action is limited, the necessary procedures are burdensome, and unions face severe consequences for illegal strikes.³⁰

In all, the "right to strike" in the United Kingdom generally is enacted through a convoluted statutory framework.³¹ Such a nuanced right must be made effective through labor regulations, even in nations where the right to strike is established in textual form in a constitutional article.³² An excellent illustration of a "legislated" privilege as the UK law may now be described as protecting a right to strike, albeit one that is pieced together from a variety of sources including statutes like TULRCA, the legal principles, Convention rights, and applicable legal precedent in light of the passage of the Human Rights Act in the UK and the emerging jurisprudence of the European Court of Human Rights (ECHR).³³

2. The Government and Strike Action in Public Sector

The British government tends to believe that British workers do not have an absolute "right" to strike unless doing so would violate a statutory prohibition. On the contrary, unions only have the right to

²⁰ Article 11 of the Human Rights Act of 1998.

²¹ See the Trade Union and Labour Relations (Consolidation) Act 1992 (hereafter TULRCA), amended by the Trade Union Act 2016 (TUA 2016). Also, see the Employment Relations Act 2004 (ERA 2004). With regard to Specific public service regulations, see Criminal Justice and Public Order Act 1994

²² See [1997] ICR 61, [1976] IRLR, EAT.

²³ See [2007] IRLR 608, 4 All ER 545, HL.

²⁴ Keith Ewing and Alan Bogg, 'The Implications of the RMT Case' (2014) 40 ILJ 221, 251.

²⁵ Gareth Thomas and Ian K Smith, *Smith & Thomas' Employment Law* (9th edn, OUP 2007), 737.

²⁶ See TULRCA 1992, section 180(2).

²⁷ Hugh Collins, Aileen McColgan and Keith D Ewing, *Labour Law* (2nd edn, CUP 2019) 706.

²⁸ Gwyneth Pitt, *Cases and Materials on Employment Law* (1st edn, Pearson Education Limited 2008) 570.

²⁹ Nicholas Pohl, 'Political and Economic Factors Influencing Strike Activity During the Recent Economic Crisis: A Study of The Spanish Case Between 2002 And 2013' (2018) 9 Global Labour Journal 19, 21.

³⁰ Ruth Dukes, The Right to Strike Under UK Law: Something More Than A Slogan? *Metrobus v Unite The Union* [2009] EWCA Civ 829' (2010) 39 ILJ 1, 7.

³¹ Alan Bogg and Ruth Dukes, 'Statutory Interpretation and The Limits of a Human Rights Approach: *Royal Mail Group Ltd v Communication Workers Union*' (2020) 49 ILJ 477, 478.

³² *Ibid*

³³ *Ibid*

strike when expressly allowed by law.³⁴ Workers going on strike without these safeguards could be considered in violation of their contracts, and the unions that orchestrate strikes could be held liable for torts including inducing a breach of contract or conspiracy to perform an unlawful act.³⁵

More importantly, it is not the first time that the United Kingdom has imposed such restrictions on a strike. For instance, the Police Act 1996 forbids striking by police personnel in the United Kingdom. The Incitement to Disaffection Act of 1934 similarly forbids military personnel from striking. Moreover, several prison personnel had their strike bans lifted in 2005 when unions and the government negotiated a voluntary no-strike agreement. This was possible because of sections 126-128 of the Criminal Justice and Public Order Act 1994.³⁶ Historically, postal workers were not allowed to strike due to laws dating back to the eighteenth century that forbade interfering with or delaying postal deliveries. However, no postal workers were ever prosecuted for this and relevant laws against interference with postal services clearly exempt situations of lawful strike action.³⁷ Although the Trade Union and Labor Relations (Consolidation) Act of 1992 makes it illegal to engage in industrial action with knowledge or belief that human life will be in danger or serious bodily injury will result as a result, there are currently no broad legal restrictions on strikes by employees in particular services in the UK.³⁸

The government argues that the adoption of the minimum service level during the strike is legitimate. According to the government, the ILO has declared that "minimum service levels are a proportionate means of combining the freedom to strike with the need to protect the wider public."³⁹ The ILO, however, also closely examines minimum service standards and could call for compensation guarantees when they are enforced.⁴⁰ In a similar vein, the European Council of Social Rights (ECSR) has ruled that some minimum service level arrangements violate Article 6(4) of the European Social Charter.⁴¹

Nonetheless, the administration introduced the bill to be adopted because of the lost workdays caused by the strike. According to stats, the Office for National Statistics (ONS) typically reports data on the number of workdays lost due to industrial conflicts; however, due to the outbreak of the coronavirus pandemic, the ONS temporarily halted this practice. Statistics for the time period spanning February 2020-May 2022 are unavailable, despite the ONS resuming publishing of this data in June 2022.⁴² An estimated 1.16 million workdays were missed between June and October of 2022 because of strikes in the United Kingdom.

Here is a graphic depicting the amount of working days missed in the UK due to strike action from 2011-2019 and from June-December 2022. This seven-month span in 2022 has seen more missed days than any full year since 2011 did.

The 2011 number of 1.39 million missed days was the highest since 1990. After November and December data is released, it is likely that 2022's total number of missed days will be higher.⁴³

³⁴ Brione, Patrick "Strikes (Minimum Service Levels) Bill 2022-23", House of Common Library, Research Briefing. (13 January 2023).

³⁵ *Ibid.*

³⁶ Explanatory Note to the Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 SI No.908

³⁷ Deakin and Morris' Labour Law, Seventh Edition, Hart Publishing, 2021, p1050

³⁸ s240, Part V, Trade Union and Labour Relations (Consolidation) Act 1992 (legislation.gov.uk)

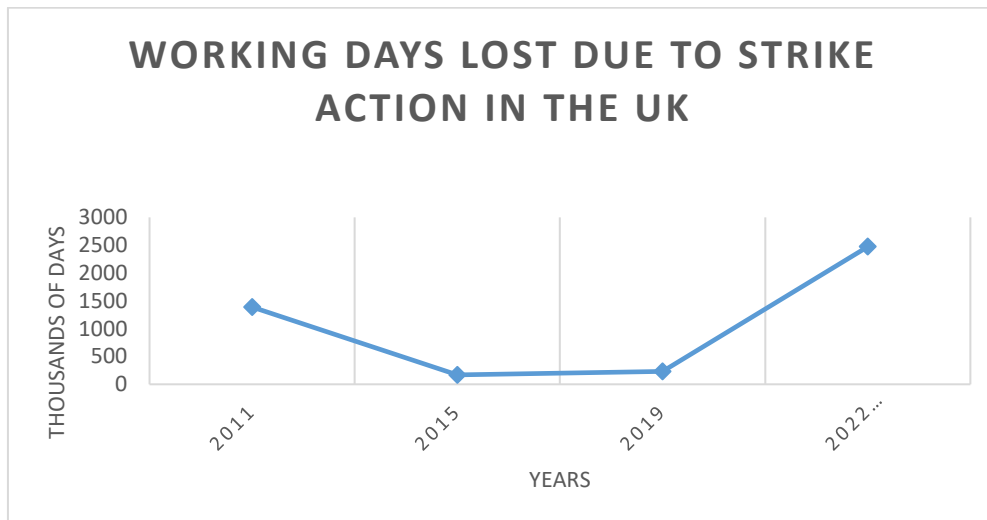
³⁹ Grant Shapps MP, HC Deb, vol. 725, col. 433, 10 January 2023.

⁴⁰ International Labour Organisation, Freedom of Association: Compilation of decisions of the Committee on Freedom of Association, Sixth edition, 2018, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf. [866]

⁴¹ Confederation of Independent Trade Unions in Bulgaria v Bulgaria, Complaint No. 32/2005, 30 March 2007.

⁴² ONS, Labour disputes; working days lost due to strike action; UK (thousands), 14 February 2023.

⁴³ *Ibid.*



In addition, the ONS Business Register and Employment Survey (BRES) estimates the number of employees in most of the industries where minimum service requirements will be implemented. Its 2021 coverage extends to these industries in the United Kingdom.⁴⁴ The number of workers who will be affected by the minimal service requirements is probably overestimated here. This is due to the low probability that all workers in these industries will be affected by the legislation.⁴⁵

In 2021, it was projected that 2.5 million people in the United Kingdom will work in the health services sector. The following steps make up this whole process. It was projected that there are 1.7 million people involved in healthcare. Moreover, it was projected that 380,000 people are employed in the medical and dentistry industries. In addition, it was expected that 460 thousand people are engaged in various different human health activities. Workers in the social care sector are excluded from this category.⁴⁶

By 2021, it was predicted that there would be 50,000 people actively engaged in fire service activities. Members of both the "regular" and "auxiliary" fire brigades who labor to prevent fires, put out blazes, and rescue people and animals are included here.⁴⁷

In 2021, it was projected that 2.6 million people in the United Kingdom would be employed in the education industry. The minimum service requirements in this Bill may not apply to persons who work in fields other than education. It was projected that there were 2.3 million people working in the early childhood, primary, secondary and tertiary education fields combined. Over 78,000 people are employed in the early childhood education sector. The number of people employed in primary education is projected to be 1 million. It was projected that there are 750,000 people employed in secondary and postsecondary education.⁴⁸

In 2021, it is predicted that the transportation services sector in the United Kingdom would employ roughly 650,000 people. However, many of these people were employed in industries, such as freight transportation, that might not be affected by the minimum service requirements proposed in this Bill. It was predicted that there were 310,000 people employed in industries directly related to passenger public transit. A total of 128,000 people in urban and suburban areas had jobs in passenger land transportation, while 53,000 worked in passenger rail. Other passenger land transportation employed 56,000 people. Among the transportation industries, 9,000 were involved in maritime and coastal or inland water transport, and 68,000 were involved in passenger air travel.⁴⁹

Based on these figures, the government may have to deploy military forces in the event of a strike. As stated in Deakin and Morris's Labor Law:

⁴⁴ ONS Business Register and Employment Survey, via Nomis.

⁴⁵ Brione, Patrick "Strikes (Minimum Service Levels) Bill 2022-23", House of Common Library, Research Briefing. P.12 (13 January 2023).

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*



Integral to contingency planning in the industrial sphere has been the use of troops to replace striking workers, a strategy dating back to the nineteenth century. Since 1939 the government has had a standing power, now contained in the Emergency Powers Act 1964, to deploy troops on ‘urgent work of national importance’ without a proclamation of emergency. Troops have been used to replace workers in dispute on over 30 occasions since 1945, most recently during a firefighters’ dispute in 2002/2003.⁵⁰ On some occasions (in 1979, 1981, 1982 and 1989-1990) the police have been used to replace ambulance workers in dispute, although their deployment for this purpose is of dubious legal and constitutional propriety.⁵¹

Moreover, Deakin and Morris state that the UK government may in some circumstances be able to enjoin particular groups of public sector employees from striking by using injunctions:

As we discussed in para 9.6, in relation to certain groups of workers liability may lie for inducement to breach a statutory duty, a wrong against which there is no statutory immunity. As we have seen, it is not difficult for applicants to obtain an interim injunction to halt industrial action in any dispute and in relation to disputes in essential service; the nature of the disruption is likely to give them additional ammunition. Given the severe penalties for breaching an injunction, this may be a more powerful constraint than the criminal law.⁵²

The government maintains its position highlighting the significance of the minimum service level requirement in protecting other essential constitutional rights from strike-related effects.⁵³ In Spain, for example, the Spanish model established that the Spanish Constitution and current regulations mandate the continuation of “vital” community services even while workers are on strike. Both government policy and Constitutional Court precedent define these services, and both set limits on the kinds of regulation that can be applied to them, as the European Trade Union Institute (ETUI) notes:

The Constitutional Court, however, has imposed certain restrictions on the notion of essential services. In particular, the level of service required must not be out of proportion to the breach of fundamental rights threatened by the strike. Judicial review and negotiations between government and the two sides of industry to determine what staff should be co-opted to provide minimum services are fundamental safeguards of the right to strike in essential public and economic services.⁵⁴

However, Unions have the right to appeal a decision to impose minimum service levels made in response to a strike in a civil court.⁵⁵ This fact sheet goes on to provide a real-world scenario in which this was put into reality during:

On 23 September 2010, for the first time a collective agreement was concluded between the Government and the two main trade unions to organise minimum service provision during general strike action that was due to take place six days later. The

⁵⁰ This has since been repeated during the border force strikes in 2022.

⁵¹ Deakin and Morris’ Labour Law, Seventh Edition, Hart Publishing, 2021, p1051.

⁵² Deakin and Morris’ Labour Law, Seventh Edition, Hart Publishing, 2021, p1051.

⁵³ Brione, Patrick “Strikes (Minimum Service Levels) Bill 2022-23”, House of Common Library, Research Briefing. P.26 (13 January 2023).

⁵⁴ The right to strike in the public services – Spain [PDF], European Public Service Union and European Trade Union Institute, 2021, p9.

⁵⁵ Brione, Patrick “Strikes (Minimum Service Levels) Bill 2022-23”, House of Common Library, Research Briefing. P.26 (13 January 2023).

agreement mainly covered the transport sector, as negotiations in all other sectors had failed.⁵⁶

As for Italy, essential services are defined for strike reasons under Italian statute.⁵⁷ A wide variety of offerings are available, such as:

health service, the service of waste collection and disposal, the supplying of energy and primary goods, the service of justice, protection of the environment and surveillance of museums, transports, payment by banks of pensions and wages, education, the postal services, telecommunication services and public information on radio and television.⁵⁸

An array of additional constitutional protections must be weighed against the right to strike in these services:

the right to life, the right to health and to personal freedom and security, the freedom to travel, the right to assistance and to social security, the right to education and the freedom to communication.⁵⁹

Finally, collective agreements between the service provider and the local trade unions are required to outline the implementation of minimum service in certain industries. The agreements are reviewed by the Commission of Guarantee, an independent statutory body that has the authority to determine if they maintain a fair balance between the right to strike and other constitutional rights. If necessary, the Commission of Guarantee can issue orders for additional action, including fines for either unions or employers.⁶⁰

CONCLUSION

The purpose of minimum service levels (MSLs) is to find a middle ground between the rights of unions and their members to strike and the public's requirement to have access to essential services even while workers are on strike. After consultation and parliamentary approval, the legislation will enable regulations to be drafted establishing the mandatory minimum service level and the services to which it applies. Legally, in the United Kingdom, one cannot go on strike. The Kingdom recognizes the rights to a peaceful assembly and being able to associate with others, such as the right to form and join labor organizations for the defense of their interests, as guaranteed by Article 11 of the European Convention on Human Rights (ECHR), to which the UK is a member. It is clear from the precedents of the European Court of Human Rights that Article 11 can include strike protection. Legal restrictions may be placed on this freedom. Workers who provide life-sustaining services to the public may have their right to strike curtailed, but only if the state can demonstrate a compelling need to do so. Protests that resort to violence are not tolerated.

⁵⁶ The right to strike in the public services – Spain [PDF], European Public Service Union and European Trade Union Institute, 2021, p9.

⁵⁷ Law No. 146 of 12 June 1990.

⁵⁸ The right to strike in the public services – Italy [PDF], European Public Service Union and European Trade Union Institute, 2021, p7.

⁵⁹ The right to strike in the public services – Italy [PDF], European Public Service Union and European Trade Union Institute, 2021, p7.

⁶⁰ The right to strike in the public services – Italy [PDF], European Public Service Union and European Trade Union Institute, 2021, p8.