



## Press Release

### HAVE CIVIL SERVANTS DONE THEIR JOB?

Karlsruhe/Munich, 11 June 2018 – Are civil servants allowed to strike? The Federal Constitutional Court is dealing with this question on Tuesday, 12 June 2018. Teachers from various German federal states submitted an appeal to the Federal Constitutional Court against the ban on strikes for civil servants (2 BvR 1738/12 *et al.*).

During teaching time the teachers had taken part in industrial actions of the Trade Union for Education and Science which was punished by disciplinary measures, since according to German Basic Law civil servants are prohibited from striking. The European Convention on Human Rights to which the teachers, *inter alia*, referred, however, allows a strike of civil servants if the civil servants concerned exercise activities which are not directly sovereign tasks, as it is the case with teachers.

In the year 2014 the Federal Administrative Court dealt with this dilemma and concluded that the ban on strikes for civil servants as enshrined in the German constitution has priority over the European Convention on Human Rights. However, in the long term, the legislator should adjust German law to the European Convention on Human Rights and grant a right to strike, at least, for some of the civil servants.

"In our view there can be no right to strike for civil servants. If the Federal Constitutional Court recognizes a right to strike for civil servants, then this would finally mean that collective agreements would have to be concluded for them", says *Dr. Wolfgang Lipinski*, Labour Law Specialist and Partner of the international commercial law firm BEITEN BURKHARDT. "Since a strike is only admissible if it pursues an objective which can be regulated by collective bargaining. However, at present the remuneration of the civil service is regulated by law", explains the lawyer. *Dr. Thomas Lambrich*, also a Labour Law Specialist and a Partner at BEITEN BURKHARDT, further adds: "Should the civil servants be allowed to strike in the future, the question arises what will be left over of their status as civil servants. Whether teachers will then be granted the status of established civil servants at all, remains an exciting question".

*Dr. Wolfgang Lipinski* and *Dr. Thomas Lambrich* are available for further information,



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statements and guest contributions.

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- Beiten Burkhardt is an independent international commercial law firm with a focused range of services and some 285 lawyers working in 9 locations.
- Through our long-established offices in Germany, Brussels, China and Russia we advise large and mid-sized companies and corporate groups from various industries, banks and financial institutions as well as the public sector.