

Because of Dutch police-actions for earlier pension

1 September 2024

Mayor Rotterdam forbids footballmatch Feijenoord – Ajax.



14 September 2024

Police intervention XR-demonstration only after police-action.



Willy Valckx LLM



Senior ranked police-officer Dutch Police.

Member of the board of Equipe, Police-Union for higher professional and scientifically educated police officers.
(Member of the board of EU.Pol, European Federation of Police-Unions, Director EU.Pol-Academy.)

Jan Dijkers



Senior ranked police-officer Dutch Police (retired).

Union executive of Equipe, Police-Union for higher professional and scientifically educated police officers.
More than 30 years international police-organization advisor all over the world.

Two approaches

1. Legal approach (Willy Valckx).
2. Cultural approach (Jan Dijkers).

Legal approach

European Convention on Human Rights (Court in Strasbourg)

Article 11. Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join **trade unions** for the **protection** of his **interests**.
2. **No restrictions** shall be placed on the exercise of these rights other than such as are **prescribed by law** and are **necessary** in a democratic society in the interests of **national security** or **public safety**, for the prevention of **disorder** or **crime**, for the protection of **health** or **morals** or for the protection of the **rights** and **freedoms** of others. This Article shall **not prevent** the imposition of **lawful restrictions** on the exercise of these rights by members of the armed forces, of the **police** or of the administration of the State.

Charter of Fundamental Rights of the European Union (Court in Luxembourg)

Article 12 Freedom of assembly and of association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

Article 28 Right of collective bargaining and action

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

European Social Charter (Court in Luxembourg)

Article 6 The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the **Contracting Parties** undertake:

1. to **promote** joint **consultation** between workers and employers;
2. to **promote**, where necessary and appropriate, **machinery** for voluntary **negotiations** between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of **collective agreements**;
3. to **promote** the **establishment** and use of appropriate machinery for **conciliation** and voluntary **arbitration** for the settlement of labour disputes;

and **recognise**:

4. the right of workers and employers to **collective action** in cases of conflicts of interest, including the **right to strike**, subject to obligations that might arise out of collective agreements previously entered into.

Relationship:

European Convention Human Rights - European Social Charter

1. Article 28 European Convention is **based** on Article 6 of the European Social Charter (and the Community Charter of the Fundamental Social Rights of Workers (paragraphs 12 to 14).
2. The right to **collective action** has been **recognized** by the Strasbourg European Court of Human Rights as **part** of the right to trade unionism recognized in article 11 of the European Convention HR.
3. The details and **limits** on the exercise of collective action, including strike action, are subject to **national laws** and practices, including whether they can be undertaken simultaneously in different Member States.

Relationship:

European Convention Human Rights - Charter EU - European Social Charter

1. The Charter of the European Union is part of European Union law.
2. The European Convention of Human Rights is **not** a part of European Union law.
3. Jurisprudence of the Court of Luxembourg on fundamental rights is **based** on the European Convention of Human Rights.
4. Recital 5 to the Charter of the European Union shows that the content of the Charter EU confirms the rights flowing from the European Convention of Human Rights.

Legal situation Netherlands

Dutch Supreme Court 1986:

1. **Judges** are obliged to **protect** the right to **strike** from article 6, paragraph 4 of the European Social Charter.
2. Therefore, **no strike law** in the Netherlands.
3. **Strike** is allowed if there is **no agreement** on the content of the collective agreement.

But

Legal situation Netherlands

But, in **addition** to article G of the European Charter of Social Rights there is a **case law framework**:

If the action falls under Article 6, paragraph 4:

1. A **strike** is a **last resort** (ultimum remedium)
2. **Timely notice** must be given (**to avoid** unnecessary damage to business and to protect the interests of those who depend on the services of the employer on strike)
3. A **strike** must **not** lead to **disruption** of **essential services** (e.g. police, fire brigade, postal services)
4. A **strike** must **not** result in **disproportionate damage** to third parties; the burden of proving disproportionate third-party damage rests with the party challenging the action in court.

Therefore it was possible

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Legal / Cultural approach

Same European Treaties,

different explanations and applications!

Cultural approach

Professor Geert Hofstede, National cultures

Geert Hofstede, assisted by others, came up with six basic dimensions that describe national society needs to come to term with in order to organize itself.

Organizations in a country are derived from this, so also the government and police in Portugal.

These are called dimensions of culture.

Each of them has been expressed on a scale that runs roughly from 0 to 100.

The so called 6-D model of national culture.

Cultural approach

Keyword in relation between Portugese Police and Government concerning Police Trade Unions

TRUST

Does TRUST fit in the national culture of Portugal ?

Power distance

The extent to which the less powerful members of organizations accept that power is distributed unequally.

Netherlands 31 (small distance)

Portugal 63 (large distance)

Small

Large

Inequality should be minimized

In the order of inequality has everebody rightful place

Superiors should be accessible

Superiors are often inaccessible

All have equal rights

Power holders are entitled to priviliges

Uncertainty avoidance

The extent to which people feel threatened by ambiguous situations and have created beliefs and institutions that try to avoid these.

Netherlands	50	(average)	Portugal	104	(very strong)
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Average

Strong

Easy going, lower stress

Higher anxiety and stress

As few rules as possible

Need for laws and rules and go for them

Acceptance of dissent, more tolerance

Intolerance of deviant ideas and persons

Subjects for discussion

1. A legal or cultural approach to realize the right for police action or strike?
2. Are the Portuguese culture and their institutions fit to embrace the TRUST in the police-unions and are the police-unions fit to TRUST the government?
3. Is the police considered to be there for the government or the civilians of Portugal?
4. Are police-unions a threat or an opportunity for partnership in policing Portugal?
5. Is within the frame of the European Treaties and Portuguese culture dialogue between government and police-unions as partners possible?

Questions?

Thank you for your attention!