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Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948

Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87)

Written information provided by the Government

The Government has provided the following written information.

(i) Right to organize of firefighting personnel

From 18 January 2019 to 26 June 2023, the Ministry of Internal Affairs and Communications (MIC) held regular consultations with the employees' side, in response to the summary of the Chairperson.

The 11th consultation, held on 26 June 2023, entailed substantive consultation on the ambulance system during the COVID-19 pandemic. At this consultation, the MIC explained that the number of firefighters, including ambulance team members and ambulance vehicles, had been consistently increased over the past years, even during the COVID-19 pandemic and the Government has taken financial measures to strengthen both, and that the Fire and Disaster Management Agency (FDMA) introduced effective methods at the fire department headquarters in order to reduce the burden on ambulance team members. The FDMA regularly takes measures to digitize, expedite, and facilitate ambulance services by utilizing the Individual Number Card and to promote the timely and appropriate use of ambulances. The employees' side stated that they would continue exchanges on the issues of firefighters in coordination with the MIC.

On 1 January 2024, a large-scale earthquake (the 2024 Noto Peninsula earthquake) occurred in Ishikawa Prefecture, and a total of 4,919 units of 211 headquarters from 21 prefectures converged on the disaster area on the instructions of the Commissioner of the FDMA, saved lives and transported the victims, in cooperation with the police and Self-Defense Force. In Japan, a disaster-prone country where large-scale earthquakes and other disasters occur frequently, a unified command and integrated actions with related organizations are required to ensure prompt and effective disaster response.

With regard to the Fire and Defense Personnel Committee (FDPC) system, the MIC has conducted a survey reflecting the employees' side's opinion to understand the operational status of the FDPC, and found improvements on many points. For further improvement, the MIC notified fire department headquarters across the country of elements to note about the operation of the FDPC.

(ii) Right to organize of prison staff

(1) As stated in the previous reports, a prison officer has the duty to incarcerate persons sentenced to imprisonment, accused, suspects and those sentenced to death in penal institutions. Further, a prison officer, being granted the authority to investigate crimes in penal institutions and to arrest inmates, controls judicial police work in penal institutions and, in addition, is permitted by law to carry and use a weapon, just like police officials. In view of the purport of Article 9 of the Convention, therefore, prison officers are considered to be included in the “police” as mentioned in the Article. Regarding the Government’s view above, the Government acknowledges that this is recognized by the ILO’s Committee on Freedom of Association in its 12th report and 54th report as well.

In cases where any emergency occurs in a penal institution, the institution is required to promptly and properly bring the situation under control by force, if necessary, in accordance with the direction and supervision of the officer who has the highest rank of all personnel at the site. The personnel of penal institutions in Japan work together to respond to such an emergency situation. It is not appropriate to give the personnel of penal institutions the right to organize, because it poses a problem for the appropriate performance of the above-mentioned duties and proper maintenance of discipline and order in penal institutions.

(2) Based on the views stated in subparagraph (1) above, the personnel of penal institutions are not entitled to the right to organize. However, based on the observations in the report of the Committee of Experts in 2018, the Government created new, and expanded the existing, opportunities for the personnel of penal institutions to express their own opinions on their working environment. Specifically, as stated in the report submitted by the Government in 2023, the Government has been continually organizing meetings for exchanging views between executives of each Regional Correction Headquarters and general staff members and holding annual conferences of Penal Institutions for Female Prisoners, in order to solve its unique challenges.

Furthermore, since June 2003, “consultation services for staff”, which accept anonymous consultations/complaints, have been introduced at the Correction Bureau, Regional Correction Headquarters and Training Institution for Correctional Personnel. In May 2023, in addition to further improving the working environment and promoting work-life balance among staff, the Government widely informed staff about not only consultation services within the correctional organizations, but also the various services provided by external organizations such as the National Personnel Authority (NPA), by setting up a “Strengthening Consultation Period”, aimed at intensively accepting suggestions from and consultations with staff. Since 1 April 2024, the Government has been assigning mental health counsellors to all penal institutions in order to enhance mental health measures for correctional staff who work in unique environments involving stress, and to ensure their psychological safety in the workplace. As stated in subparagraph (1), the personnel of penal institutions are not entitled to the right to organize. However, the Government is seeking to improve their workplace environment through various measures including those that are not stated above.

(iii) Public service employees

The basic labour rights of public service employees of Japan are, to some extent, restricted, due to their distinctive status as “servants of all citizens” and the public nature of the functions they are required to perform, in order to guarantee all citizens’ common interests. Instead, they benefit from the NPA Recommendation system and other compensatory measures. The Government, taking a basic position of respecting the NPA

Recommendation system, drafts bills, which are deliberated in the Diet, and then revises remuneration. These compensatory measures have ensured that the working conditions of national public service employees are appropriate. The Supreme Court of Japan judged that guarantees made by the NPA Recommendation system and other related measures have been established as a system and administered as compensation for certain restrictions on their basic labour rights (judgment made by the Grand Bench of the Supreme Court on 25 April 1973).

In order to perform such compensatory functions properly, where a recommendation is made by which remuneration and other working conditions of national public service employees will be brought into line with the general conditions of society, the NPA examines the general conditions of society and carries out surveys on working conditions, such as remuneration in the private sector. The NPA has established a Deputy Director-General for Employee Organizations' Affairs and a Counsellor to hear opinions from employee organizations. In making recommendations about working conditions of officials to the Diet and the Cabinet, and enacting, revising, or abolishing the Rules, the NPA hears employee organizations' opinions or requests through meetings and reflects these in its recommendations as far as possible.

The NPA listened to and exchanged opinions with employee organizations at 186 official meetings in 2023 (100 meetings were held before recommendations and reports were drafted from January to August).

The Government, taking a basic stance of respecting the NPA Recommendation system, reviews decisions regarding national public service employees' remuneration from the viewpoint of national administration in general, and has submitted, to the Diet, the Amendment Bill of the Act on Remuneration of Officials in the Regular Service concerning the revision of remuneration. Thus, laws are revised swiftly.

As was also taken into consideration in the conclusions of the Conference Committee in 2018, there are various issues concerning measures for the autonomous labour-employer relations system, including that "negotiation costs will increase, which may lead to some confusion" and that "prolonged labour-employer negotiations may affect execution of operations".

In addition, as reported in the previous reports of the Government, the Amendment Act of the National Public Service Act, enacted in April 2014 was formulated on the premise of the current situation, in which a part of the basic labour rights of national public service employees is restricted, and does not provide measures for an autonomous labour-employer relations system.

The reason for this is that, in light of the fact that the four civil service reform related bills, which provided for the establishment of an autonomous labour-employer relations system, received various opinions from the public and were subsequently abolished, and in light of the changes in the situation and environment since then, there are a wide range of issues that have yet to be understood by the public. This situation remains unchanged today. For these reasons, the Government believes that the measures for an autonomous labour-employer relations system are an issue that should be carefully examined while continuing to exchange opinions with employee organizations in Japan.

The Government has exchanged views annually with individual employee organizations at various levels, from Ministers to officials in charge, on various cases including the autonomous labour-employer relations system according to the situations at the time each

year, including in spring and after the NPA Recommendations are issued. The topics include: remuneration; part-time employees; work-life balance; and matters related to the autonomous labour-employer relations system, such as in the spring period, and the handling of the NPA Recommendation after its issue. In addition, based on requests from employee organizations, opinions are exchanged on individual measures, including the improved treatment of part-time officials such as “eliminating gaps regarding working conditions including remuneration, allowances, and leave”, “prohibiting so-called ‘termination of employment’”, and “introducing a permanent employment conversion system similar to that in private sectors” as well as improved treatment of female national public employees such as through “expanding recruitment and promotions” and “preventing various types of harassment”.

Also, as for the basic labour rights of local public service employees, based on the examination of national civil service reform that is stated in the Government’s report in response to the Conference Committee’s conclusions on the application of the Convention, the Government will carry out careful examinations regarding measures for local public service, and listen to the opinions of related organizations.

Discussion by the Committee

Chairperson - I kindly invite the Government representative of Japan to take the floor.

Interpretation from Japanese: **Government representative** – On behalf of the Japanese Government, I would like to present our basic position concerning the observations of the Committee of Experts on the application of the Convention.

Firstly, I would like to explain the local Government officer, especially the fire defence personnel. The fire defence in Japan doesn’t have the right to organize, as is also the case with police officials, because for the purport of Article 9 of the Convention they are considered to be included in ‘the police’ under the Article due to the historical background, natural and social environment and its duties. The recognition that the fire defence in Japan plays a similar role to the police remains unchanged to this day, given its development of being historically a part of police and the duties based on legislation. Moreover, in 1965, Japan ratified the Convention, based on the Committee on Freedom of Association conclusions, which had shown twice, that this matter causes no problems in the application of the Convention, regarding the firefighting services in Japan as “certain services assimilated to the police”. In response to the conclusion adopted by this Committee in 2018, we have ever held 11 consultations with our social partners about the view of the Government that firefighters are considered to be included in the police, et cetera, and have deepened our understanding of each other’s arguments. We will continue to promote dialogue and to strive for mutual understanding.

Japan is one of the most disaster-prone countries that approximately 20 per cent of the world’s earthquakes of magnitude 6.0 or greater occur in around of, and approximately 10 per cent of the world’s active volcanoes exist in. That is why high-level of service discipline is essential for fire defence in Japan to protect the lives, bodies and properties of citizens. Once a disaster occurs in Japan, firefighting units from all over the country converge on the disaster area as Emergency Fire Response Teams and are put under duty of response to disasters under a unified command by the direction of the Commissioner of the Fire and Disaster Management Agency (FDMA), in a very close relationship with police and the self-defence forces. Actually, at the time of 2024 Noto Peninsula Earthquake, occurred in Ishikawa Prefecture on 1 January 2024, a total of 4,919 units of 211 headquarters from 21 prefectures sequentially converged on the disaster area by the direction of the Commissioner of the FDMA, rescued

lives and transported the victims, are put under extremely high-skilled and dangerous duty of response to the disaster at the fore front in a very close relationship with police and the self-defence forces. We fully respect such dedication of fire defence personnel, and current status that they are working in a very close relationship with the police and self-defence forces should be recognized.

Next, I would like to mention that as an alternative for the right to organize, the Fire Defense Personnel Committee System has been taken root. The role of it is to deliberate opinions submitted from fire defence personnel and utter opinions to the fire chief about the results of deliberation. This system is introduced by the amendment of the Law based on the top-level agreement between the Minister of Internal Affairs and the Commissioner of JICHIRO-RENGO, All Japan Prefectural and Municipal Workers Union, in June 1995 as the solution which can gain a national consensus, and is fully functioning to resolve problems related to working conditions, etcetera.

The Fire Defense Personnel Committee System, while more than a quarter of a century has passed since its establishment, is set up by all fire department headquarters and held at least once each fiscal year by all. It has deliberated on about 5,000 opinions each year recently, from fire defence personnel. It has ever deliberated on approximately 140,000 opinions in total since its establishment and about 40 per cent of these opinions have been decided as “appropriate to be implemented” by the Committee. In addition, about the very 50 per cent or more of them have already been realized. Those opinions are in urgent need of the fire defence personnel such as requests for countermeasures for harassment and establishment of Epidemic Prevention Work Allowance, which is paid to ambulance team members and others engaged in work to deal with the COVID-19. It clearly shows that the Fire Defense Personnel Committee System contributes to the realization of their demands.

In addition to the fact that the Fire Defense Personnel Committee is fully functioning, we also would like to stress that the Government of Japan has tried to improve the current system. In order to create an environment in which fire defence personnel can more easily submit their opinions, the implementation policy about the Fire Defense Personnel Committee System was revised in 2005 and, based on the conclusions of this Committee, in 2018. Based on the results of the survey that we have conducted reflecting Employees’ side’s opinion to understand the operational status of the Fire Defense Personnel Committee, we notified fire department headquarters across the country of things to note about the operation of the Fire Defense Personnel Committee System to discuss actively on the Committee and to ensure transparency of its procedures. As the results of these measures, we found out the improvements in many points.

We will continue to understand the operational status of the Fire Defense Personnel Committee and improve its operation through dialogue with the related organizations including social partners, JICHIRO-RENGO.

The personnel of penal institutions, who are national government officials, are not granted the right to organize either, as is also the case with police officials. This is because, for the purport of Article 9 of the Convention, prison officers, who constitute most of the personnel, are considered to be included in “the police” as stipulated in the Article for the following reason. The reason behind this is the prison officers conduct judicial police work in penal institutions and those are permitted by law to carry and use a weapon just as the police officials. In case where any emergency occurs in a penal institution, it is required to work together in order to bring the situation under control promptly and properly by force, if necessary, in accordance with the direction and supervision of the highest-ranking personnel

at the site. Therefore, giving the right to organize to the personnel of penal institutions will pose a problem for appropriate performance of the above-mentioned duties and proper maintenance of discipline and order in penal institutions.

In this regard, aiming at furthering and defending the interests of the personnel of penal institutions, the Government newly created and expanded the opportunities for them to express their own opinions on the working environment, etc., which is based on the observations on the report from the Committee of Experts in 2018. Specifically, as stated in the report submitted from the Government in 2023, the Government has been continually organizing meetings on exchanging views between executives of each Regional Correction Headquarters and general staff members, and holding Annual Conferences of Penal Institutions for Females, in order to solve its unique challenges.

In addition, since June 2003, “consultation services for staff”, which accept anonymous consultations and complaints, have been introduced into the Correction Bureau, Regional Correction Headquarters and the Training Institution for Correctional Personnel. In May 2023, to further improve the working environment and promote the work-life balance among staff, the Government widely informed the staff about not only such consultation services within the correctional organizations but also the various services provided by external organizations such as National Personnel Authority, by setting a “Strengthening Consultation Period”, aiming at intensively accepting suggestions and consultations from the staff. Furthermore, since 1 April 2024, the Government has been assigning mental health counsellors to all penal institutions in order to enhance mental health measures for correctional staff who work in its unique environments involving stresses and to ensure their psychological safety in the workplace. The Government will continue to implement those various initiatives to further and defend the interests of them.

Finally, I would like to address the basic labour rights of public service employees. In the latest report of the Committee of Experts, Japan has received the comments on the basic labour rights, in particular the right to industrial action, of public service employees. However, the question whether the right to strike is protected under the Convention is currently referred to the International Court of Justice and its proceedings are in process, we should refrain from discussing the issue with the assumption that the right to strike is protected under this Convention.

Now, I will explain the basic labour rights of national public employees. The basic labour rights of the national public employees of Japan are, to some extent, restricted. However, they benefit from the National Personnel Authority Recommendation system and other compensatory measures. Specifically, remuneration, working hours, leave, and other working conditions of the national public employees are modified as follows:

- The National Personnel Authority (NPA) provides Recommendations to the Diet, which is comprised of representatives of the Japanese public, and the Cabinet.
- In response to the Recommendations, the Government drafts the bills to modify working conditions, and the Diet deliberates and passes them.

The NPA independently makes its own judgements and decisions on the National Personnel Authority Recommendation System and other affairs under the jurisdiction as a third-party neutral to employers and employees. As for remuneration level in particular, after carrying out nationwide fact-finding surveys on the remuneration of national public employees and employees at private offices, the NPA makes the recommendations basically for the purpose of balancing the remuneration level of national public employees and private-sector

employees by filling the gap in their remuneration through hearing the opinions thoroughly both from employers and employees and precisely comparing the remuneration of national public employees with that in the private sector every year.

In response to the NPA Recommendation, the Government, taking a basic stance of respecting that system and hearing opinions from employee organizations, has drafted the bills, which are deliberated by the Diet, and revised remuneration. Over the past decade, for example, the Government has revised remuneration in accordance with the NPA Recommendation, and base pay and bonuses have both been increased every year, except for 2020 and 2021, when the remuneration in the private sector had been affected by the COVID-19. This has been the long-standing method to revise remuneration of national public employees since 1960s. Therefore, the functions of the NPA, which includes providing compensatory measures for restricted basic labour rights, are maintained.

The Government is confident that the working conditions of public service employees are appropriately maintained through the aforementioned process, where the bills submitted in response to the Recommendation from the NPA, a neutral and third-party organization, are deliberated at the Diet.

There are currently various concerns and opinions regarding the autonomous labour-employer relations system, including that “negotiation costs will increase, which may lead to some confusion” as well as that “prolonged labour-employer negotiations may affect execution of operations”. In light of the fact that the bills, which provided for the establishment of an autonomous labour-employer relations system, received various opinions from the public and were subsequently abolished, and in light of the changes in the situation and environment since then, there are a wide range of issues that have yet to be understood by the public. Therefore, the Government needs to continue careful examination of the issue.

Additionally, the Government of Japan makes efforts to communicate with employee organizations including by holding regular consultations, which generally cover a wide range of topics, including not only remuneration but also working hours and vacation time. Also, high-level meetings with the Minister in charge are arranged at those consultations. Therefore, the Government believes that these consultations function effectively as a channel for dialogue with employee organizations.

In addition to regular consultations, when establishing or revising a national public employees working system, it is customary to carefully explain and exchange opinions with employee organizations beforehand. For instance, in the process of making a law in force in 2023 which gradually raise the mandatory retirement age for national public employees from age 60, a total of 25 meetings were held to exchange opinions. Further, in 2023, when the law regulating working hours for national public employees was amended to expand the application of the flexitime system, there was an example where consultations with employee organizations were held during the course of drafting the bill.

The Government of Japan shall continue to have social dialogue with employee organizations, including through consultations on the working conditions.

I have explained the basic position of the Japanese Government. Also, the Government will report information concerning these matters as much as possible, taking into consideration the latest Observation of the Committee of Experts. It would be grateful if the ILO would respect the view of the Government and the circumstances unique to our country and wait and see the conclusion of the domestic consultations in Japan.

Worker members – This is the ninth time we are discussing the Government’s application of this fundamental and enabling Convention. I will focus my intervention on what, in our view, is at the heart of this long-standing issue of the right to organize for firefighters and other public and local service employees.

Japan ratified the Convention in 1965, and at least since 1973, our Committee has been seized with this matter, so for already 50 years, that is half a century. From the outset, we are bound to state that Japan is not one of those Member States of the ILO who persist in antagonizing social partners, attacking their independence or for that matter, disregarding the role or guidance of the Committee of Experts, on the contrary. But on this very fundamental issue, we must express our deepest disappointment that the right to organize for firefighters and others in public service remains unresolved. In 2018, our consensual recommendations as a Committee, called on the Government, to: (i) hold consultations with the social partners at the national level on the view of the Government that firefighters are considered police and how this view corresponds to the application of the Convention and provide information on the outcome of this consultation; (ii) consider, in consultation with the social partners, what categories of prison officers are considered part of the police, thus exempted from the right to organize, and those categories that are not considered part of the police, and having the right to organize; and, finally, (iii) develop a time-bound action plan together with the social partners in order to implement these recommendations and report to the Committee of Experts before its next meeting in November 2018.

For years, nothing has happened. The Government has not implemented any of this. In addition to denial of the rights of firefighters, the rights for local service employees have deteriorated since the change of legislation in April 2020. We deplore this fact. More concerning is the fact that the Government continues to hold on to justifications for the exclusion of firefighters and other public servants from exercising the right to organize which does not hold water.

As the plain language of Article 9 of the Convention indicates, not even the police or armed forces are automatically exempted from the Convention. The extent to which the guarantees provided for in the Convention applies to them, shall be determined by national laws or regulations. So clearly, it is a matter of the extent of the application of the guarantees in the Convention that is at stake here, not an outright exclusion from its coverage.

In Japan, firefighters are not police or army, and therefore, the idea that the Japanese Government can just categorize firefighters or other public servants as police or having a command or rank structure or are gun-holding personnel, in an effort to exclude them from the guarantees provided by the Convention is arbitrary and inconsistent with the scope of the Convention. Unless we are wrong, and the Japanese Government can tell us, the basic functions of the Japanese police include, for example, the authority to investigate crimes, the authority to make arrests, and the carrying and use of weapons for these purposes.

Firefighters do not have these powers. They are emergency workers and to that extent peace officers. This is the same for a majority of prison officers.

As we speak, labour standard inspectors, who are authorized to investigate crimes, have the right to organize, and narcotics agents, who are authorized to carry and use weapons, also have the right to organize.

So, if you actually look at what these public servants do in reality instead of their titles or the ranked system in which they work, there is no doubt that firefighters and prison officers

are not military or police. We must be forthright, that the way the Government is treating these categories of workers for purposes of the right to organize is discriminatory.

The Government cannot just call any group as they wish in order to deny them the right to organize. The justification for any limitations on this enabling right must find its grounds in article 9 of the Convention.

The burden for justifying any such limitation is on the Government not the workers. In the absence of this justification, the default position should be that, in accordance with their legitimate expectation, firefighters and public servants can form or join a trade union of their choice with any necessary limitations arising from their functions.

In giving consideration to the reality of the workers, we invite the Government to recognize that during the spread of the COVID-19, the personnel involved in emergency services showed a high sense of mission and a high level of professionalism to protect the lives of patients without regard for the risk of infection to themselves and their families. The idea that these colleagues will be less patriotic or professional if they exercise their right to organize cannot be further from the truth and the reality. Their professionalism only increased their popularity among the population and created a real leverage for the improvement of their rights. The sad part is that the sanitary crisis during the COVID-19 pandemic led to worsened working conditions for emergency personnel and in particular the ambulance services. And despite clear proposals, gathered from the first-responder firefighters, their organization was unable to engage with management on urgent remedial measures in the absence of a system where labour and management could cooperate.

Ironically, the organization voluntary formed by the firefighting personnel and ambulance workers have handled issues regarding equipment and working conditions since 1977 but without any right to negotiate or to be consulted by management because their right to organize has not been recognized.

The report of the Committee of Experts indicates that the Fire Chief's Association oppose the recognition of the right for ordinary firefighters because of fears that they will disrupt organizational order. This fear is obviously unfounded.

The Government has also provided information regarding the use of the Fire Defence Personnel Committee (FDPC) system, even during the Covid crisis which enabled the review of about 5,000 opinions per year of which 40 per cent are considered appropriate for implementation. But clearly, soliciting opinions and having the right to be consulted or to negotiate with is not the same. Where one has a right, it cannot be treated as a mere extension of courtesy. Based on their experiences with extreme emergency transport difficulties, these workers are stressing the necessity of labour-employer relations in the context of the right to organize so as to they can bring matter to the table of discussion and be taken seriously and to prepare for the next infectious disease crisis.

We are at pains to reiterate that the use of fact finding and opinion surveys can complement but not replace the right to organize for workers.

As workers, we are determined that this fundamental and enabling right is treated as sacrosanct. It has taken too long for the Government to address our concerns, in this regard. 50 years of requesting and waiting, half a century but still the Government has not provided any reasonable justification in line with the Convention. We must begin to consider very serious measures to protect the exercise of this right.

Employer members – This case concerns the application in practice of fundamental Convention No. 87 in Japan. Japan ratified the Convention in 1965. And since then, the Committee of Experts has made observations 24 times and this is the eighth time this Committee is discussing the case, the last being in 2018.

We would like to thank the Government of Japan for the comprehensive information they shared with the Committee today. At the outset, we would like to recall that some of the legislative issues referred to in the Committee of Experts' observations are related to the right to strike. We would like to recall our firm conviction that neither Convention No. 87 nor any other ILO Convention protects the right to strike. The Government group of the Governing Body confirmed in March 2015 that: "The scope and conditions of this right are regulated at the national level." We also believe that, in view of the pending International Court of Justice advisory opinion proceedings, the Committee of Experts should have refrained from referring to the right to industrial action in its comments, both to protect the integrity of the International Court of Justice proceedings and to demonstrate its own neutrality in relation to these proceedings.

The Employer members would like to comment on three issues identified in the Committee of Experts observations:

We take note of the information provided by the Government supporting its view that firefighting personnel in Japan is assimilated into category of police, given its historical development, as well as the nature of their duties.

The Government pointed out that Japan is one of the most disaster-prone countries. Firefighting services in Japan have a key role to play in the management of these disasters and their functions therefore extend beyond firefighting in the traditional sense. When the large-scale earthquake occurred this year, thousands of firefighters' units from all over the country were on duty to respond to the disaster in close relationship with the police and the self-defence forces. The Government stresses that a high level of discipline is essential for firefighting staff and that the granting of the right to organize may disrupt organizational order and affect the functioning of the service during wide-scale disasters.

The Government also explains that, when it ratified the Convention in 1965, it did so on the basis of earlier decisions of the Committee on Freedom of Association which saw no problem in considering the firefighting service in Japan as a service assimilated to the police. The Employers would point out here that there has been much confusion recently about the mandate of the Committee on Freedom of Association, which has no competence in supervising and interpreting Conventions, including Convention No. 87. Nevertheless, the Committee of Experts should have taken into account that the Government relied on the validity of the Committee on Freedom of Association decisions and ratified the Convention in the belief that its interpretation of firefighting services as part of the police was correct.

The Government, in its report, also referred to the FDPC System which is meant to identify and resolve problems related to the working conditions of fire defence personnel. This system was introduced by amendment of the law based on an agreement between employers and workers, and is widely accepted. We understand that the system has been rolled out nationwide and has already contributed to the improvement of many work environments. We also note that the Government makes continuous efforts to further improve the system.

The Committee of Experts on the other hand finds that the implementation policy of the FDPC remains distinct from the recognition of the right to organize under Article 2 of the Convention. Accordingly, the Committee of Experts repeats its expectation that there will be

further progress towards ensuring the right of firefighting personnel to form and join an organization of their own choosing to defend their occupational interests.

The Employer members believe that things may not be as straightforward as the Committee of Experts suggests. While the only possible exceptions to the scope of the Convention concern the police and the armed forces, these terms do not always have exactly the same meaning in the national context. It may be argued that both terms are synonyms for situations that are of fundamental importance for the internal and external security of a State, and thus for areas that fall within the core area of national sovereignty which the Convention did not want to interfere with. From this point of view, it can be argued that the firefighting service in Japan, which is responsible for dealing with natural disasters, is of similar importance for the protection of people's lives, health and property as the police in a narrower sense, given the frequent natural disasters in Japan. One could further argue that the reasons in favour of excluding the police and armed forces from the scope of the Convention apply equally to the fire service in Japan. Against this background, the Employers appreciate the Government's efforts to pursue an approach that combines compliance with the requirements of the Convention as well with its specific national needs. We encourage the Government to continue on this way, in close consultation with the social partners. In doing so, the Employers suggest to the Government, to seek further guidance and ideas from good practice in other countries with similar systems and needs.

The second area of observations relate to the right to organize of prison officers. We also take note of the Government's submission that in Japan, prison officers conduct duties as judicial police officers stipulated in the Code of Criminal Procedure. Prison officers are also permitted by law to carry and use a weapon just as police officials. The Government further reiterates that, "in cases where any emergency occurs in a penal institution, it is required to bring the situation under control, by force if necessary; therefore, granting the right to organize to the personnel in penal institutions could pose a problem for the performance of their duties and maintenance of discipline and order." In view of this, we note that the Government argues that prison officers in Japan should be considered to be included in the "police" in the sense of Article 9 of the Convention.

In terms of compensation for the right to organize, the Government reported that, since 2019, it granted expanded opportunities for the personnel of penal institutions to express their opinions in the eight regional correctional headquarters across the country. Moreover, in 2022, sessions took place partly online with the participation of 222 general staff members (from 75 penal institutions). In these sessions, the participants were able to exchange opinions on various topics including improvements in the work environment, staff training and reduction of the workload. The Committee of Experts, on the other hand, expresses the view that these initiatives remained distinct from the recognition of the right to organize under Article 2 of the Convention. Consequently, the Committee of Experts urged the Government to take the necessary measures, in consultation with the social partners and other stakeholders concerned, to ensure that prison officers, other than those with the specific duties of the judicial police may form and join an organization of their own choosing to defend their occupational interests.

The Employer members, here too, would like to put on record their recognition for the Governments' continuous commitment to make progress and to find ways of implementation that both meet the requirements of the Convention and its specific needs is the way to go. The Employer members encourage the Government to continue its efforts in this regard, in close consultation with the social partners. Similar to what we proposed for the firefighter issue, the

Employers suggest to the Government, to seek further guidance and ideas from good practice in other countries with similar needs and systems.

The Employer members further take note that the Committee of Experts urges the Government to engage in consultations with the social partners and other stakeholders concerned to ensure that public service employees fully enjoy their basic labour rights.

The Government reports in this regard that, while the labour rights of public service employees in Japan are to some extent restricted due to their status, they benefit from the National Personnel Authority (NPA) system and other compensatory measures. The NPA system, which was approved by the Supreme Court of Japan in 1973, examines the general conditions of society and carries out surveys on working conditions, such as the remuneration in the private sector. Before making its recommendations about working conditions, the NPA also hears employees' organizations' opinions or requests through meetings.

As regards measures for the autonomous labour-employer relation system, referred to in the 2018 CAS conclusions, the Government reports that there have been various issues. Moreover, the Amendment Act of the National Public Service Act of April 2014 did not provide for such measures as understanding by the public was not yet achieved. The Government considers that the autonomous labour-employer relations system needs further careful examination while the exchange of opinion with employee organizations is continued.

The Employer members recognize the efforts of the Government and the NPA to organize and conduct continuous dialogue with social partners on the autonomous labour-employer relations system. We consider that these consultations are helpful in exchanging opinions and gathering information on a wide range of issues. While the Employer members encourage the Government to continue on this way, they understand that a time-bound action plan on measures for the autonomous labour-employer relations system, as requested by the Committee in 2018, may not be appropriate, given the complexity of the issues involved.

Finally, we ask the Government to report on its progress by 1 September 2024 to allow the Committee of Experts to review further developments in 2025.

Interpretation from Japanese: Worker member, Japan – First of all, regarding the legal system of labour relations for public service employees, which is in violation of Conventions Nos 87 and 98, the Government of Japan has totally failed to respond to any of the requests of the Committee of Experts and the Committee on Freedom of Association made over many years. It is with extremely grave concern that I bring to the attention of this Committee that the Government has even closed the path to a finding a solution to this matter.

When the individual review was conducted in 2018, the conclusions of the Chairperson of the Committee, identified five issues and called on the Government “to develop a time-bound action plan together with the social partners in order to implement its recommendations.”

However, despite the fact that six years has passed since then, the Japanese Government continues its unjust and deliberate negligence by stating “we continue to carefully consider how we will respond to the requests of the Chairperson.” The Government has also stated “we are also exchanging views with JTUC-RENGO on how to respond to the requests in the Chairperson’s conclusion, although in reality they are taking no such action. In order to shed light on the unjust stance of the Japanese Government, I would like to describe the actual situation and assessment of the five issues pointed out in the Chairperson’s conclusions of the Committee in 2018.

First, I would like to discuss “the consideration of the autonomous labour-employer relations system through consultation with social partners.” The Japanese Government points out that it “has been exchanging views with employee organizations,” but this is completely false. Thus far, the Government has only revealed its views if and only when requested by the organizations and has shown no willingness to take the initiative such consultations. Moreover, for over ten years, since 2014, the Government has maintained the insincere stance of repeating the same response, and I quote “due to a wide range of issues, we will consider the matter carefully while exchanging views in good faith.”

The second issue is “the formulation of a plan to improve the functions of the Fire Defense Committee through continuous labour-employer consultations.” The Fire Defense Committee system was put into effect in 1996, and nearly 30 years have passed since then. In recent years, it has become clear that the system is a mere formality, with the Ministry of Internal Affairs and Communications Fire and Disaster Management Agency issuing a notification to request that local fire department headquarters make improvements in the operation of the system. The system clearly differs from collective labour-employer relations under the right to organize, and its limitations have become extremely clear.

The third issue is “consultation with social partners at the national level on the Government’s view that firefighting personnel are considered to be police and how that view fits with the current state of application of the convention.” Based on the 2018 conclusions of the Chairperson of the Committee, I recognize that this is the only issue on which concrete discussions are taking place. Having said so, the Japanese Government Report to the Committee of Experts, issued four months after the Chairperson’s conclusion, stated “Japanese firefighting personnel need to pay full attention to the fact that there is no problem in the application of the Convention as it is regarded that there is ‘a certain part of their duties that should be considered to be the same as the police,’ and we will hold discussions with the labour side during exchanges of opinions.”

In other words, since the Japanese Government has been conducting consultations on the premise that “firefighting personnel are the same as the police,” the consultations have been limited to an exchange of each other’s arguments. I would like to point out that unless the Government changes its stance, namely, the premise that firefighters are denied their right to organize, no further progress can be expected from these consultations. The “consultation and review with social partners on categories of prison officers that are considered to be part of the police and whose right to organize is denied, and categories that are not considered to be part of the police and thus have the right to organize.”

Due to the unfair inaction of the Japanese Government on this issue, as pointed out in the statement of the representative of the employer at the 2018 Committee, not only has there been no progress whatsoever, even the first steps are yet to be taken.

At the same time, Japan’s prisons are undemocratic workplaces in which the right to organize is denied. Incidents of violence against inmates by staff, something that should never happen, under any circumstance have occurred, since the 2018 Conclusions of the Chairperson of the Committee. The turnover of young prison staff and officers is also significantly higher than in other occupations.

I would like to express a strong protest for the fact that, despite this, the Japanese Government has deliberately denied the existence of social partners with whom it should be consulting on and considering these matters, as requested in the Conclusions of the Chairperson of the 2018 Committee, thereby denying the idea of consultation itself.

The fifth issue is the “consultation and review with social partners on whether the National Personnel Authority (NPA) procedures provide neutral and prompt mediation and arbitration.”

The Japanese Government emphasizes only the number of meetings between the NPA and the employee organizations to simply hear opinions that are not really consultations. Furthermore, the Japanese Government insists on the compensatory measures in Japan’s Supreme Court verdict of 50 years ago. Based on its unilateral evaluation that the functions of the NPA have been adequately fulfilled, the Government maintains its stance of refusing to engage in discussion or review of the NPA’s procedures.

Thus far, I have reported on the Japanese Government’s stance and responses regarding the actual situation and assessment of the five issues pointed out in the 2018 conclusions of the Chairperson of the Committee, six years ago.

I am aware that the Committee of Experts and the Committee on Freedom of Association have already drawn universal and firm conclusions on all five of these issues.

However, I once again draw the attention of the Chairperson and the entire Committee to the fact that the Japanese Government has continued to intentionally avoid taking action in accordance with the 2018 conclusions of the Chairperson of the Committee.

I would like to add, that with regards to the public service employee labour-employer relations system, that the establishment of basic labour rights is extremely meaningful, in that it would allow the participation of employees and labour unions in the administrative management.

“Trade unions represent employees directly engaged in administration,” and given that they “have insights regarding the entire administration from the accumulated experience of employees in workplaces,” it would be extremely useful to have their involvement.

It would be possible to utilize this insights to provide higher quality public services through labour-employer negotiations. I believe that this is the significance and good sense underpinning labour-employer relations systems in which basic labour rights have been implemented in all countries around the world with the notable exception of Japan.

It would follow therefore, that restrictions on the basic labour rights of public service employees in fact have a negative impact on the management of the administration and these restrictions are hindering public service employees from approaching their duties with wisdom and with passion.

In conclusion, in view of the responsibilities and obligations of the Government of Japan vis-à-vis the international community and vis-à-vis the ILO, I would like to request that in examining this case the Committee discuss and reach firm conclusions that will lead to a sincere response from the Japanese Government that they will take sincere steps toward a fundamental and thorough solution to the issue of the basic labour rights of public service employees in Japan.

Employer member, Japan – I speak on behalf of the Japanese employers regarding this case on the effective implementation, in law and practice, of the Convention in Japan. We thank the Government of Japan for their comprehensive information shared with us in this sitting.

First of all, we would like to stress that Japanese employers’ organizations support the Government of Japan’s report on the Committee of Experts’ observations regarding the application of the Convention sent in 2021. We note that here there is no difference in the Government’s position today.

Before I turn to the main issue of this case, I wish to recall discussions in previous years on the issue of the Committee of Experts making observations regarding the right to strike in the context of the Convention. It is not necessary to repeat the employers' position at length, I will limit myself to noting that in 2015 the Governments' group position has been that the right to strike is to be regulated at the national level. We agree with this and note the national level regulation of the right to strike in Japan.

Concerning the present case, the contentious issues on the Japanese Governments' ratification of the Convention relates to compensatory measures for the basic labour rights of firefighting personnel, prison officers and civil servants, including national civil servants.

First, I would like to discuss the situation of firefighting personnel and prison officers in Japan. As highlighted by the Government of Japan on multiple occasions, unlike other countries, Japan frequently faces natural disasters including huge earthquakes and tsunamis. For this reason, we consider that it is appropriate for the Government to treat firefighting personnel like police, for the purpose of effectively coordinating their actions to protect peoples' lives, health, and property when crisis occurs.

On the other hand, it is undisputed that it is extremely important to improve the working conditions and benefits of firefighting personnel and prison officers, taking into account the realities of their workplaces. For this reason, it is extremely important that there are continuous exchanges of views within the Fire Defense Personnel Committee (FDPC) and also the Regional Correction Headquarters. Furthermore, we note the importance for the Government to address the concerns of the firefighting personnel and prison officers to the extent possible.

In this regard, the Government of Japan claims that it is making further amendments to its operational policy in light of the 2018 Committee of Experts' comments, but the workers repeatedly argue that such efforts are inadequate. From the other view, the Japanese employers regret this situation has persisted for so long.

Therefore, the Japanese employers would like the Japanese Government to provide detailed information on the Fire Defense Personnel Committee System and the exchange of views with prison officers and the efforts of the Penal Institutions for Females, in particular on the various measures and improvements the Japanese Government has implemented for firefighting personnel and prison officers that they are convinced and satisfied with. It is important to share with Japanese workers and management materials that show that they are satisfied with the various measures and improvements that have been implemented by the Japanese Government, and to hold regular discussions at tripartite forums between Government workers and employers in Japan.

Next, I would like to address the issue concerning civil servants, including national civil servants. Japanese employers' organizations support the Japanese Government's view that the National Personnel Authority recommendation system, a compensatory measure to regulate the basic labour rights of public servants in our country. This system has traditionally worked well thus far.

Regarding the autonomous labour-employer relations system, it should be noted that not only the draft law amendment stipulating measures for an autonomous labour-employer relations system was repealed, but the public comments on the draft law amendment conducted by the Japanese Government between 2010 and 2011, also showed that there is not sufficient understanding and support for the autonomous labour-employer relations system

from the public. In order for the system to be implemented in Japan, it is essential to gain the understanding and also support from the public.

The Japanese employers therefore call on the Japanese Government to continue promoting dialogue with social partners, including exchanging views to ensure that the National Personnel Authority recommendation system is properly implemented.

To conclude, this is the eighth time that the Committee has discussed this case. We strongly hope that there will not be a ninth discussion.

Worker member, New Zealand – This intervention is supported by the workers of the Netherlands. I am representing the New Zealand Council of Trades Unions and it is in my experience as the National Secretary of the New Zealand Professional Firefighters Union that I intervene to dispel the misunderstandings of those opposed to Japan's firefighters exercising their right to organize.

Firefighters put their quality and quantity of life on the line every time they respond, protecting and serving the community. It takes a special person to walk into fire, crawl into confined spaces during powerful aftershocks, perform complex rescues at the risk of exploding vehicles and to continue to respond knowing they are being exposed to carcinogens at every fire, and trauma on almost every shift. Their dedication and service to the public does not diminish when they become a union member. The right to organise is a positive outcome for the firefighting profession and the public they protect.

Globally, we can provide many examples where it was only through the advocacy of the firefighters' union that safe staffing levels and systems were implemented. The community is better protected with sufficient firefighters arriving faster, well-trained and qualified, armed with the necessary equipment to perform whatever task it takes to rescue and protect.

Fire services are emergency services and must be able to react and adapt effectively and efficiently. The current Japanese Fire Defense Committee is a process that does not provide a mechanism for implementation of change such as improvement in working conditions and duties under urgency. At the height of the COVID-19 pandemic, the Japanese emergency services were stretched beyond their limit with the Fire Defense Committee unable to meet the challenges of the ever-changing response environment with urgency.

In comparison, in New Zealand, the union and the employer worked constructively to implement the necessary changes to protective equipment and response procedures. The changes were implemented seamlessly and accepted immediately by the firefighters as they knew changes were agreed with their health and safety held paramount. The right to organize does not detrimentally interfere with incident control or the duties on the incident ground. The involvement of unionised workers in developing the training and qualification programmes enhances the command structures.

There are significant differences between police and firefighters. Firefighters are protectors, not enforcers and their duties and authorities are founded on that important difference.

And I would just like to remind the hall that New Zealanders are also very prone to large scale events, extreme weather events, earthquakes, cyclones and therefore the New Zealand firefighters are responding in a very similar context to that of the Japanese firefighters.

The refusal to grant firefighters their right to organise is to deny them their right to actively participate in matters directly impacting their health, safety and well-being. It denies their rightful place in enhancing the emergency's response provided to their communities. The

Japanese firefighters have been excluded from this right for 76 years. They must be afforded their fundamental rights in accordance with the Convention now.

We implore the Committee to take every available action to ensure the Japanese Government implements this fundamental right to organize for the health, safety and wellbeing of Japanese firefighters and the communities they serve.

Employer member, Brazil – Discussions on the extension of freedom of association and the right to organize are among the most important in terms of such fundamental principles and rights at work. Their importance is reiterated by the number of cases under discussion in the debate of the Committee of this year. There are nine. Not to mention the existence of a specific Committee just to deal with such issues, the Committee on Freedom of Association. The information presented today at the CAS reiterates the importance of the topic. They also reiterate, in line with what the Committee on Freedom of Association has already decided, that the unquestionably fundamental freedom of association and the right to organize are not absolute and unlimited. In this sense, I see that the Convention itself in its Article 9 makes it clear that there is reasonableness in some cases, especially with regard to the armed forces and the police, for limits to be defined in the internal laws of each country in accordance with the reality of the countries. Also, Convention No. 98, which although is not subject to the present case also deals with the right to organize, in its Article 5, establishes that the extent to which this right will be extended to the armed forces and the police will be determined by national legislation. It is worth saying, the Committee on Freedom of Association itself has already recognized the regularity of the limitations to freedom of association and the right to organize when examining exactly the case of prison staff in Japan.

Therefore, I understand as reasonable and proportional that there are limitations on freedom of association and the right to organize in exceptional cases, such as the armed forces and police, categories in which it is possible for countries to frame, according to their specific reality, professionals from the fire department and those from prison establishments due to the very nature of their activities. Of course, the continuous dialogue between the public administrations of each country and the professionals essential for the security of each nation must be sought and deepened, as it seemed to us to be the case, as it is unquestionably necessary and important. And this is independent of the limitations to freedom of association. In this way, I pray that the mentioned dialogue suitable to the reality of the country can continue.

Worker member, Republic of Korea – I would like to address the absence of the right of firefighters to organize in Japan. Since 1973, the Committee of Experts has examined their exclusion and considered that this is not compliant with the Convention. In its report this year, the Committee of Experts continue to urge the Government of Japan to: “fully grant the right to organize and collective bargaining to firefighters”. The Committee expects the continuing consultations between the Government and trade unions would lead to progress.

The Japanese Government’s claim that granting firefighters the right to organize would negatively impact their duties is utterly unfounded. On similar ground, the firefighters in Republic of Korea had not been able to organize form or join a trade union. The restrictions on such rights were upheld by the Constitutional Court decision handed down in December 2008. However, has part of the process of ratification of the Convention, the Korean National Assembly adopted legislative amendment to uplift these restrictions in December 2020, as a first step towards observing Republic of Korea’s obligations under the Convention.

Aligning domestic laws with the ratified ILO Convention is a commitment and an obligation of the Member States.

By now, their right to organize has been granted to firefighters in Republic of Korea. This has had no adverse effect whatsoever on their duties. My fellow workers had illustrated similar experiences in their countries.

We reiterate the comment of the Committee of Experts that job performance is entirely distinctive from the right to freedom of association of firefighters, which is the subject matter of examination concerning compliance under the Convention.

We deeply regret that the Government and the Fire Chiefs' Association of Japan are holding on to the same argument for decades to deny the firefighters from enjoying the rights protected under the Convention. This argument that firefighters forming into trade unions would critically hamper lifesaving rescues and operations – do not have reasonable ground compared to the experiences of their counterparts in member states, including Republic of Korea - where their rights to organize has been respected and enforced.

Firefighters all over the world poses first and foremost a profound sense of duty to protect lives and properties. The Japanese Government's speculative arguments on the negative impacts of unionization of the firefighters are disrespectful of the mission and professionalism upheld by the firefighters. Such arguments are nothing but mere excuses of the Government's lack of commitment to implementing their obligation under the Convention.

Employer member, Republic of Korea – I am here today to convey my solidarity with the Japanese Government's efforts to respect the freedom of association in its country. To begin, I would like to stress that, unlike Korea, Japan is the country that often experiences natural disasters including tsunami and earthquakes due to its unique geography. Accordingly, the Korean Employers acknowledged that the Government of Japan have adopted specific laws that are specifically adapted to the national circumstances in Japan.

Furthermore, the Korean Employers take note of the measures that the Government of Japan has taken towards addressing the issues on firefighters and prison officers, including civil servants and local officials. The Government's recent actions demonstrate its commitment to establishing an environment that facilitates the free association of these workers.

Moreover, the Korean Employers consider that it is imperative to recognize that the Government is not the sole entity responsible for implementing these changes. In order to guarantee the success of these initiatives, it is imperative that labour and other stakeholders take concrete actions. The Japanese tripartite stakeholders should collaborate to accomplish a shared objective that is governed by mutual trust, respect, and good faith. Genuine social dialogue should be prioritized, with transparency and consensus-building as the guiding principles. Stakeholders can guarantee that their concerns are fully investigated and that the appropriate measures are implemented by participating in a dialogue-based approach.

In conclusion, the Korean Employers hope that the Government of Japan will continue its efforts to safeguard and advance freedom of association and to provide information to the Committee of Experts in a timely manner.

Worker member, United States of America – My remarks will focus on the Government of Japan's long-standing policy of denying the employees of correctional facilities their right to organize under the Convention.

Over the past 70 years, the Japanese Government has provided various justifications for its refusal to grant correctional workers their right to organize. Upon examination, none of these withstand scrutiny and its past time that they provide these workers with their fundamental right to organize a trade union.

For decades, the ILO supervisory mechanisms have rejected Japan's attempt to claim that all corrections employees are "police officers" and thus exempt from the Convention's guarantee of freedom of association.

It is particularly regrettable that Japan has deliberately denied the existence of social partners and ignored the Committee of Experts' recommendations including the request of the Chairperson of this Committee in 2018 that they "consider, in close consultation with the social partners, which categories of prison staff could be considered part of the police – and therefore exempt from the Convention – and which could not."

The Committee of Experts have also rejected Japan's claim that simply because some correctional officers are authorized to carry firearms in the course of their duties, that they must be considered as part of the police or armed forces. The Government of Japan has also advanced the argument that providing correctional employees with the right to organize would be too dangerous and might undermine discipline and order at penal institutions. However, this argument is easily dismissed by the fact that many ILO Member States provide their prison officers and other corrections employees with the right to organize with no apparent effect on public safety or order in correctional institutions. For example, in the United States, prison guards enjoy the right to organize trade unions, and this has enhanced, not weakened, the safety and security of our penal institutions. Indeed, unions representing correctional officers and employees in the United States have been instrumental in addressing issues of understaffing and poor working conditions in both minimum and maximum security facilities.

It is simply outrageous that the Government of Japan continues to ignore the clear recommendations of the ILO's supervisory mechanisms to reform its unsupportable blanket denial of freedom of association to correctional workers, firefighters, and other categories of public servants. It should immediately recognize the right of correctional employees to organize to have a voice in the workplace, free from any restraint from management. Doing so should be seen as the one and only measure that would improve their closed work environment, providing them a fair, open and democratic one.

Worker member, Italy – I take the floor on behalf of the Italian trade union confederations, CGIL, CISL and UIL, and the British federation of trade unions, the Trades Union Congress, the French Trade Union Confederation, the German Trade Union Confederation, representing together more than 22 million workers.

The Committee of Experts noted with deep concerns the observations from the Japanese Trade Union Confederation (JTUC-RENGO) regretting the long-standing Government's reluctant position on the reform of the autonomous labour-employer relations system, and the failure to initiate consultations with the social partners, in particular the lack of willing to reconsider the National Personnel Authority (NPA) mechanism.

According to that, more than 3 million Japanese public servants do not have the right to bargain or conclude collective agreements at the local or national level, only a defective and unilateral consultation process without any possibility to bring workers instances. Their wages and working conditions are set by law and/or regulations, based on the recommendations issued by the NPA.

The effects of COVID-19 imposed an economic contraction in the private sector and, in response, the NPA's recommendations in 2021 called for lowering national public servants' salaries. Due to political circumstances, including the schedule for elections, there was not enough time to take the legal measures to implement the salary change that year. As a result,

the 2021 revision of salaries of national public servants was applied the following year, in June 2022, bringing anxiety, doubt and misunderstanding among staff who had been struggling with COVID-19 restrictions in their daily work.

The pandemic, with its severe socio-economic impact, has shown once again that such a mechanism is dysfunctional as a compensatory measure and inadequate in times of social crisis to ensure an autonomous industrial relations system and improving working conditions and wages in the public sector.

In Italy, Legislative Decree No. 165/2001 defines the general rules on representativeness and organization of work in public administrations and enables the negotiation process at all levels for establishing wage and working conditions. Unlike in Japan, more than 3 million Italian public servants are subject to the regulation set out in national collective agreements, signed by the most representative trade unions and the Agency for the Negotiation Representation of Public Administrations (ARAN).

In the UK, there are multiple, distinct pay review bodies for the public sector, including different committees for pay in hospitals, prisons, schools and the civil service. The bodies are not – despite their official designation – independent, as the Government sets budgetary limits on what they can recommend, nor does the Government have to accept their recommendations. But neither do the unions representing the workers have to accept the Government's decisions, sometimes leading to new negotiations. Union negotiating, for example leading to the 2023 public sector pay awards, can significantly improve the budgetary limits set by the Government, and the Government's acceptance of the recommended pay increase.

Chair, in the light of the critical defects and limitations in the NPA illustrated so far, that demonstrated that this mechanism is an obstacle to genuine enforcement of rights under the Convention, Italian, British, French and German workers demand as follows.

As requested by reports of the Expert Committee in the last years and this Committee's conclusions in 2018, we urge the Japanese Government to start a consultation process with social partners in order to review the NPA system and introduce a new system to ensure neutral and prompt mediation and arbitration, in addition to guarantee that public service employees fully enjoy their basic labour rights.

Observer, Educational International (EI) – I will focus my statement on the rights of education workers. Public teachers, everywhere including in Japan, request a commitment from public authorities to promote and realize their rights at work through an institutionalized and autonomous labour-employer relationship. While their right to collective bargaining is recognized, public teachers' union cannot conclude collective agreements.

One issue that should be addressed through collective agreement is overtime and burnout. Overtime is a grave issue for teachers in Japan. On average they accumulate 81 hours overtime each month in junior high schools and 59 hours in elementary schools. The 1971 Act on Special Measures concerning Salaries and Other Conditions for Education Personnel of Public Schools does not permit extra work allowances except for certain limited work such as out-of-school training, school events, staff meetings and emergency disasters. However, the Act provided for a 4 per cent adjustment for overtime hours in teaching, which was limited to eight hours a month. And I recall, on average, teachers in Japan, work 81 hours extra every month.

In 2022, excessive burden pushed over 12,000 junior high school teachers and over 6,500 elementary teachers to be on absence leave of over 1 month for mental related illnesses. The

excessive workload and mental pressure are pushing workers away from a career in teaching. Staff shortage is acute. A survey from the Ministry of Education in 2021 highlighted that 2,065 positions in teaching were vacant. Shortages increase every year, leaving tens of thousands of children without a teacher.

Teacher shortage is one of the reasons why the United Nations called for a Summit on the Teaching Profession. 59 strong recommendations emerged from this Summit dealing among others with social dialogue and wellbeing of teachers. Recommendation 15 requests Governments to ensure that teachers and their organizations can engage in social dialogue, including collective bargaining, on policy dialogue, on all matters affecting the profession. This UN recommendation, endorsed by the ILO and UNESCO, is another international instrument supporting the claim for the working conditions in the education sector to be improved through collective agreements.

Observer, Public Service International (PSI) – I would like to focus my intervention on the establishment of an autonomous labour-employer relations system for national public service employees in Japan.

In June 2008, Japan enacted the National Civil Service System Reform Basic Act which included a significant measure: a clause stating that “the Government shall take measures to implement an autonomous labour-employer relations system” in the public sector. This was a clear demand from the Diet, Japan’s legislative body, for the Government to not just “consider”, but to materialize these measures.

In 2011, the Government submitted a related bill to the Diet, but regrettably, it was scrapped without deliberation. Since then, the Government’s response has been a repetitive catch phrase, a mantra, that “there is a wide range of issues which we will consider carefully”. This response has been the status quo for over a decade.

When the case of Japan on the Convention was discussed in this Committee, in 2018, its conclusions pointed out the lack of meaningful progress in taking necessary measures regarding the autonomous labour-employer relations system, and more specifically requested the Government to examine carefully this measure in consultation with the social partners. However, six years have passed and as noted by the Committee of Experts, no concrete examination has been made.

The Government’s inaction is not only a disregard for the will of the Diet, representing citizens of Japan, but also a neglect of its obligations under the Convention, which Japan voluntarily ratified in 1965.

This attitude reflects an attempt to evade its responsibility while hoping the workers concerned will forget about the issue. The Government has made claims that the “benefits and costs” of granting public service workers the right to enter into agreements require careful consideration. However, the rights of working people should not be judged purely in monetary terms. The Bill submitted to in 2011 stated that an autonomous labour-employer relations system is “an agile, flexible system that grants new rights to clerical employees to enter into agreements, abolishes third-party recommendation systems such as the National Personnel Authority, and allows workers and employers to determine working conditions autonomously”. This system can be established simply and clearly. The constant delay by the Government is intolerable given its obligations at both domestic and international levels.

This case is one of oldest – if not the oldest, in this Committee. For five decades, Japan has failed to honour its obligations under the Convention, a cornerstone of international labour

rights. This prolonged inaction is deeply concerning and unacceptable for a nation that prides itself on democratic values and the rule of law.

We urge Japan to immediately rectify this egregious neglect and align its practices with its international commitments, reaffirming its dedication to the principles of justice and equality for all workers.

Chairperson – I can see no more requests for the floor, so I have the honour to give the floor to the Government representative of Japan.

Government representative – I would like to explain our basic position again after the statement made by the other representatives.

First of all, I would like to reiterate the particularity of fire defence in Japan. The fire defence personnel in Japan do not have the right to organize because “the service in which they engage are to be assimilated to that of the police”, and for purport of Article 9 of the Convention, they are considered to be included in “police” as stipulated in the Article. In other words, fire defence in Japan has a history in that it has been a part of the police, and once a disaster occurs in Japan which is one of the foremost nations frequently hit by disasters, the fire defence personnel are put under duty of response to disasters in a very close relationship with the police and the Self-Defence Forces.

Our country has experienced several large-scale disasters, like the Great East Japan Earthquake in 2011, the 2016 Kumamoto Earthquake, the northern Kyushu heavy rain in July 2017, 2018 West Japan heavy rain and this year, 2024, the Noto Peninsula Earthquake, etc., so we fully respect such dedication of the fire defence personnel who is put under extremely high-skilled and dangerous duty of response to the disaster at the forefront under a unified command on each occasion. Under the situation where earthquakes and tsunamis that are expected to cause devastating damage over a wide area including Tokyo, such as the Nankai Trough megathrust quake and Tokyo inland earthquake, are expected to occur at a fairly a high probability in the near future, the current status that they are required to work in a very close relationship with the police and Self-Defence Forces should be recognized.

Moreover, I would like to mention again the effectiveness of the Fire Defense Personnel Committee System which is the alternative of the right to organize. Through the system, about 40 per cent of the opinions which have been deliberated were decided as “appropriate to be implemented” by the Committee and about 50 per cent or more of them have already been realized. Those opinions are urgent needs of the fire defence personnel, such as requests for countermeasures for harassment, establishment of the Epidemic Prevention Work Allowance, which is paid to ambulance team members and others engaged in work to deal with the COVID-19, and equipment to prevent them from harmful COVID-19 infections. The Fire Defense Personnel Committee System was introduced as the solution which can gain a national consensus based on the agreement between the Government of Japan and the employees’ side. We will continue to appropriately understand the operational status of the Committee of each fire department headquarters and work to improve its operation with related organizations, including social partners, JICHIRO-RENGO. In order to deepen mutual understanding regarding the fire defence, including the Fire Defense Personnel Committee System, we continue to have social dialogue with social partners regularly and to strive for communication.

The Government would like to reiterate the peculiarity of the prison officer. The Government repeats that the prison officers, who are national government officials, are not granted the right to organize as is also the case with police officials. This is because, for the

purport of the Convention, prison officers are considered to be included in “the police” as stipulated in Article 9 of the Convention. The reason behind this is that prison officers have the duty of incarcerating persons sentenced to imprisonment in penal institutions; and those are responsible for controlling judicial police work in penal institutions, such as investigation of crimes and arrests of inmates; as well as those are permitted by law to carry and use weapons, just as police officials.

Aiming at furthering and defending the interests of the personnel of penal institutions, the Government will continue to implement those various initiatives introduced at the beginning.

As I mentioned at the beginning, we should refrain from discussing the right to strike at this point. In any case, compensatory measures for the restrictions on basic labour rights of the national public employees function properly. There are various concerns and opinions regarding the autonomous labour–employer relations system, and a wide range of issues that have yet to be understood by the public. Therefore, the Government needs to continue careful examination of the issues. The Government shall continue to strive for mutual understanding and to have social dialogue on various themes including the autonomous labour–employer relations system with the social partners including employee organizations.

Employer members – Once again, the Employer members would like to thank the speakers who took the floor on this case to contribute to our discussion. We would also like to thank the Government of Japan for their participation in our discussion and for providing information for us to consider in our assessment of the case. We thank them for the explanations that they have given, especially on the national context which will give us insights for our assessment. So, in that context, the Employer members would like to ask the Government to continue social dialogue with the social partners at national level on the issues identified and to report on its progress by 1 September 2024 to allow the Committee of Experts to review further developments in 2025.

Worker members – We thank the Government of Japan for their statement, and we also thank all those who intervened.

Since the Employers’ group has reiterated its position on the right to strike, the Workers’ group feels compelled to reiterate its own, as referenced during the opening sitting of our Committee. There has been a difference in opinion on the right to strike. We nevertheless found a *modus operandi* in 2015, ten years ago, and the referral of the question by the ILO Governing Body to the International Court of Justice should not affect it and therefore the functioning of our Committee in this regard. Also, the references made to the 2015 statement of the Government group in this discussion are one-sided and do not reflect the statement of the Government group read as whole. Moreover, our debate here is not about the right to strike, but about the right of firefighters and other public and local service employees to organize.

Getting back to this case, it is said that the first organized emergency services in the world began in Vienna in 1881. I’m sure other emergency services were also operating in other parts of the world unknown to the recorder. Be that as it may, since then, emergency services have been established as institutions all over the world. Although there are differences in some or all of these, it is assumed that firefighting organizations are responsible for emergency services in many countries and cities. So, we are concerned that the views expressed here by the Government of Japan harbours a core misconception – as if the mere fact of being an emergency worker exclude one from the right to organize or that as soon as one exercises the right to organize, all professional ethics and disciplines is thrown out of the window.

As we said in the opening speech, this is not the case. The right to organize is sacrosanct but not absolute. There can be limitations on the exercise of the right, as one employer said, but there is no automatic exclusion from the right to organize. The Convention is clear, I quote: "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation..." that's Article 2 of the Convention and I quote again Article 9 of the Convention: "The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations."

The Report of the Committee of Experts stated in 1973 that "The Committee does not consider that the duties of firefighting personnel are of such a nature as to justify the exclusion of this type of worker under Article 9 of the Convention concerning the military and police. The Committee therefore hopes that the Government will take appropriate measures to ensure that the right to organize is also recognized for this type of worker." So, the Workers are on solid grounds here. The Government must justify the non-recognition of their right to organize, otherwise you must allow its exercise without further delay.

In conclusion, we must highlight that in June 2019, as part of the ILO Centenary, the House of Representatives and the House of Councillors of the Japanese National Diet unanimously passed and adopted the resolution concerning Japan's further contributions to the International Labour Organization on the commemoration of the centenary of its foundation. This was an important moment in the relationship between Japan and ILO.

The resolution recalled that "Japan, as one of the founding members of the ILO holding a titular seat in the ILO Governing Body as one of the states of chief industrial importance since 1954, has played a leading role in promoting ILO's activities, not only in Japan but also elsewhere in the world, and that our continued contribution is strongly expected by the international community." The resolution further states that "we hereby reconfirm the leading roles of Japan to be played within the ILO, and express our commitment to make our utmost contributions to pursuing and achieving the principle and objectives of the ILO in cooperation with the Member States throughout the world, leading to the development of the ILO in the next 100 years."

The resolution pointed out that Japan "must make additional efforts toward ratification of the remaining unratified fundamental Conventions" and "... must make additional efforts with the international community to ensure the sincere implementation of ratified Conventions" as a specific issue.

We welcome the commitment by Japan to ensure sincere implementation of ratified Conventions. This commitment must surely include Convention No. 87 and the right to organize.

At the moment, we call on the Government, in consultation with social partners, to adopt a timebound road map and action plan as soon as possible and submit the road map and action plan to the Committee of Experts by the end of September 2024. The road map and action plan must provide the pathway to resolving this matter by 2026.

We are at a loss why the Government has not, as part of its national consultations on this matter, sought information and advice from the ILO. We urge the Government of Japan to do so without delay and so to avoid a tenth discussion of this case because the eighth discussion took place in 2018 to correct one of the employers, and this year we have already the ninth discussion, he was hoping for that that would never take place.

Given the fundamental and enabling nature of the right to organize under the Convention and the persistent refusal, without reasonable justification, to ensure that firefighters and other public servants not performing core police or military duties can fully exercise and benefit from the protections guaranteed under the Convention, this case merits a special paragraph. Without such a serious step, the right to organize will be emptied of all meaning.

Conclusions of the Committee

The Committee took note of the oral and written information provided by the Government and the discussion that followed.

The Committee noted the long-standing nature and the prior discussion of this case in the Committee, most recently in 2018.

Taking into account the discussion, the Committee requested the Government, to consider, in line with the Convention and in consultation with employers' and workers' organizations:

- **further improvements of the status and labour conditions of firefighters;**
- **what categories of prison officers are considered part of the police, thus exempted from the right to organize, and those categories that are not considered part of the police, and having the right to organize;**
- **with regard to public service employees:**
 - **ensure that the National Personnel Authority (NPA) procedures guarantee effective, impartial and speedy conciliation and arbitration procedures;**
 - **continue to examine carefully the autonomous labour-employer relations system and seek solution to the various obstacles to it, in line with the Convention; and**
- **review the Local Public Service Act and any other related legislation to ensure that local public sector workers enjoy the rights and guarantees set out in the Convention.**

The Committee requested the Government to submit a report to the Committee of Experts on progress achieved on all of the above matters by 1 September 2024.

Interpretation from Japanese: Government representative – On behalf of the Japanese Government, I would like to express our opinions in response to the conclusion.

Regarding the right to organize of the fire defence personnel, the Government would comprehend the operation of the Fire Defense Personnel Committee system as an alternative to granting the right to organize and work to improve its operation with related organizations including social partners.

Regarding the right to organize of the personnel of penal institutions, the Government will strive to achieve the furthering and defending the interests of them by implementing and expanding of various initiatives such as organizing meetings on exchanging views between executives of each regional correction headquarters and general staff members.

Regarding the autonomous labour-employer relations system, there are various concerns and opinions and a wide range of issues that have yet to be understood by the public. Therefore, the Government needs to continue careful examination of the issue. The Government continues to strive for mutual understanding with the social partners including employee organizations.