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13th sitting, 4 June 2018 (cont.), 18.40 p.m.

13^e séance, 4 juin 2018 (suite), 18 h 40

13.^a sesión, 4 de junio de 2018 (cont.), 18.40 horas

Chairperson: Mr Rorix Núñez Morales

Président: M. Rorix Núñez Morales

Presidente: Sr. Rorix Núñez Morales

Discussion of individual cases (cont.)

Discussion sur les cas individuels (suite)

Discusión sobre los casos individuales (cont.)

Japan (ratification: 1965)

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)

A Government representative of Japan (Ms. HONDA-KISHIMOTO) indicated that the basic labour rights of the national public service employees were, to some extent, restricted. They were, however, compensated by the National Personnel Authority (NPA) Recommendation System and other measures. Specifically, remuneration, working hours, leave, and other working conditions were revised through laws adopted by the Diet on the basis of the NPA recommendations. The NPA was a third party body, independent of

employers and employees, which made its own decisions. In particular, with respect to the level of remuneration of national public service employees, the NPA made its recommendations with the aim of achieving a balance in remuneration levels between the public and private sectors by eliminating the wage gaps between the two sectors. For this purpose, the Authority conducted nationwide surveys in consultation with representatives of employers and workers, and compared in detail remunerations in the public and private sectors. Upon receiving the NPA's recommendations and after consultation with public service employees' associations, the Government revised remuneration scales through bills which were submitted to the Diet for adoption. The Government, in principle, respected the NPA recommendations. The National Public Service Act had been revised in 2014, establishing the Cabinet Bureau of Personnel Affairs. Even after this amendment, the Government had been revising remuneration in accordance with the NPA's recommendations. While the fiscal conditions remained tight, both base pay and bonuses had been increased every year for the last four years. The speaker was therefore of the view that the NPA continued to provide compensatory measures. The Government was also confident that working conditions for the national public employees were maintained at a sufficient level through the deliberation of relevant bills prepared by the NPA as a neutral and independent entity. With respect to the issue of an autonomous labour–employer relations system, the Government would continue dialogue with public employees' associations in respect of various issues requiring further careful consideration. In particular, the following concerns needed to be addressed: the cost of negotiation, possible effect of prolonged labour–employer negotiations on the normal operation of services, the risks associated with a failure to reach an agreement and the use of arbitration.

With respect to firefighting personnel, she recalled that firefighting service was considered to be of a similar nature to the police; thus firefighters did not have the right to organize. The service had been historically part of the police system. In Japan, one of the countries most frequently hit by natural disasters, the fire defence service had to respond

under harsh conditions and in a close cooperation with the police and the self-defence forces. When the Great East Japan Earthquake had hit in 2011, the emergency fire response teams had been mobilized by an order of Commissioner of the Fire and Disaster Management Agency (FDMA) pursuant to the Fire and Disaster Management Organization Act, as amended in 2003. The manner in which the firefighters engages with the police and defence forces when conducting extremely dangerous operations should be recognized. For these reasons, the right to organize was not granted to the fire defence personnel. However, the Fire Defence Personnel Committee (FDPC) system was established as an alternative. The role of the FDPC was to examine proposals on working conditions by the fire service personnel and to submit its views on them to the chief of fire service. This system had been introduced by an amendment to the Fire and Disaster Management Organization Act following an agreement between the Minister of Internal Affairs and Communications and the President of All Japan Prefectural and Municipal Workers Union (JICHIRO) that such a system would be accepted nationally. The system was fully functioning for resolution of problems related to working conditions and other matters. During its 20-year existence, the FDPC had examined some 110,000 proposals and considered about 40 per cent of them to be “appropriate for implementation”. Over 50 per cent of those had been implemented and dealt with matters considered to be urgent by the fire defence personnel, such as the need for measures to deal with harassment or to promote active participation of women. Thus, the FDPC system contributed to the realization of demands of the personnel. The speaker emphasized that the Government endeavoured to improve the FDPC system and to that effect had conducted an additional survey in January 2018 with a view to identifying areas for improvement. The survey questionnaire for the special survey had been jointly prepared in close consultation with JICHIRO. On the basis of the results obtained, the Government had been exchanging views with representatives of firefighters, JICHIRO, and of the employer. All agreed that there was a need to further improve the policy so as to ensure better communication, transparency in the procedures, and an environment in which the personnel would feel safe expressing their views. The Government intended to produce a plan to

improve the FDPC and to revise the FDPC system operational policy in the summer of 2018, in further consultations with the social partners. She recalled that Japan had ratified the Convention in 1965, in view of the conclusion of the Committee on Freedom Association that had indicated twice that it would cause no problem in the application of the Convention to view the fire service of Japan as “certain services assimilated to the police.”

Equally, prison officers were not granted the right to organize, to bargain collectively or to strike as they fell, for the purpose of this Convention, under the definition of “the police”. Just as police officials, prison officers were allowed to carry and use weapons. They were responsible for incarcerating people sentenced to imprisonment, investigating crimes occurred in penal institutions, arresting the suspects and carrying out duties of the judicial police officials in penal institutions.

An up-to-date information concerning the above matters would be provided to the Committee of Experts. The speaker concluded by requesting the ILO to take into account the views of the Government and the unique circumstances of the country and to await for the conclusion of the national consultations.

The Employer members recalled that since 1989 the application of the Convention had been the subject of 19 observations of the Committee of Experts and had been discussed in the Conference Committee in 1989, 1993, 1995, 2001 and 2008. In their 2017 observation, the Committee of Experts had identified two main issues, notably the denial of the right to organize of public service employees, on the one hand, and to prison officers and firefighters on the other. Considering the need for flexibility in determining the meaning of the term “police” in line with the national context, it appeared reasonable for the Government to consider prison officers in the category of police and thereby exclude them from the right to organize in the form of a trade union. The Government had been requested to consider, in close consultation with the social partners, which categories of prison staff could be considered part of the police – thus exempt from Convention – and which could not. For those not to be covered by the Convention, the Government could be asked to establish a

compensatory scheme; for the others, the Government should ensure the rights provided in the Convention. Although firefighters had traditionally not been recognized in the exemption from the right to organize for armed forces, the Government considered them part of the police: in circumstances of natural disaster, they had similar responsibilities to protect life, body and property. Furthermore, the Government had ratified the Convention on the understanding that firefighters would be considered part of the police; it also referred to the FDPC system that had been introduced pursuant to a 1995 agreement that applied nationwide. Therefore, the Government perhaps had justification for taking into account the history and circumstances of its ratification, as well as the traditional view of firefighters in Japan. The Employer members had articulated their position on this in the 2008 discussion and, regarding the FDPC, highlighted a new level of engagement on the part of the Government. In order to comply with the Convention firefighters must have the right to organize, which did not necessarily require the right to form a trade union. Rather, an organization such as the FDPC might satisfy that obligation, provided that firefighters were allowed, not necessarily to form a trade union, but to organize themselves in relation to their occupation. The Government had also set up fact-finding missions about how that system worked. Information should be provided on that initiative, as well as feedback from the fact-findings surveys. On this basis, the Employer members considered that the Japanese context must be carefully assessed in future to better understand the issue.

Finally, the Committee of Experts had identified the denial of the right to organize to public service employees, noting that they should enjoy the right to strike without risk of sanctions. The Employer members reaffirmed that their position had not changed since the 2008 discussion: the right to strike was not an express part of the Convention and therefore did not fall within the scope of issues on which the Committee of Experts should provide observations. Whether public service employees had a right to strike was to be determined at the national level. They expressed concern that the Committee of Experts had included it in their observation, and would not elaborate further on the matter. Finally, the Government

should continue its constructive engagement with the ILO with regard to firefighters and prison officers to ensure compliance with the Convention.

The Worker members recalled that Japan had ratified the Convention more than 53 years ago. The issues before the Committee, namely the right of firefighters and prison personnel to form genuine workers' organizations and the right of public servants to organize and exercise their right to strike, had been pending before the ILO supervisory bodies ever since. The Committee had examined the application of the Convention in Japan on numerous occasions and called on the Government to ensure that public servants were guaranteed the rights under the Convention and that firefighters enjoyed the right to organize without interference from the public authorities. Notwithstanding repeated discussions of this case and the very serious and diligent engagement and patience demonstrated by the national trade unions, no progress had been made to ensure that workers could enjoy the rights under the Convention. Firefighters and prison staff were excluded from the right to join or establish trade unions under the National Public Service Act (article 108-2) and the Local Public Service Act (article 52(5)). Both Acts dated back to 1948 and excluded these categories of workers from the right to organize and join organizations for the purpose of maintaining and improving working conditions through negotiations with the relevant authorities. The Government attempted to justify the exclusion of prison staff and firefighters under Article 9(2) of the Convention by arguing that these categories of workers performed duties that were included in the duties of the police. However, the Committee of Experts, as early as 1973, had stated that it did not consider that the functions of fire defence personnel were of such a nature as to warrant their exclusion from the application of the Convention. It had called on the Government to take appropriate steps to ensure that the right to organize was recognized for these categories of workers. The Ministry of Internal Affairs and Communications had issued a report in December 2010 revealing that there were no practical obstacles to granting the right to organize to firefighters. Nevertheless, the Government had decided to drop the Bill on Labour Relations of Local Public Service Employees, which

would have had granted this right, and instead had called on further exchange of views on the subject. The Worker members expressed their deep disappointment at the lack of progress, which casted doubt on the Government's commitment to genuine, effective and efficient consultations and commitment to resolve this situation. Furthermore, regarding firefighters, the Government appeared to believe that the FDPC system it had set up was an appropriate means for allowing staff participation in the determination of working conditions. However, this system could by no means be considered to be a valid alternative to the right to organize as these committees were not freely established by workers and had no negotiating or decision-making powers. The outcome of their meetings, in the form of recommendations, were submitted to the FDMA, which enjoyed discretionary powers as to their implementation. While the Government was protracting to taking concrete steps towards giving effect to the Convention, workers were facing the consequences of the denial of their most fundamental rights. The lack of workplace democracy and the restrictions placed on workers' ability to voice collective concerns had created an abusive working environment in the firefighting services. Incidents of verbal and physical violence and harassment by managers had become commonplace and in one instance had led to a suicide. The Government bore its share of responsibility for such abuses. The Worker members strongly condemned Japan's failure to guarantee freedom of association to firefighters and prison staff in law and in practice. Japan could not continue to claim to be a free and open society while denying the most basic rights to its workers and exposing them to abuse. While the Government insisted that granting to firefighters the right to organize could interfere with emergency relief operations, it was egregious to deny the trade union rights on this account. Indeed, in a state of emergency, firefighters, Japan Self Defence Forces and the local police were mobilized to rescue human lives and firefighters' professionalism had never and should never be compromised because they had joined a union.

There were also limitations and obstacles preventing workers in the public service from enjoying the right to strike. This had been reinforced through the ongoing Government's

work-style reform initiative. Pursuant to article 98 of the National Public Service Act, public officials may not engage in strike action and article 110 made it a criminal offence, punishable by up to three years imprisonment or a fine of up to one million yen, to instigate or to incite strikes. Furthermore, the legal framework for promoting autonomous negotiations over working conditions remained inadequate. Only blue-collar public sector employees may engage in collective bargaining. Despite the longstanding nature of these issues and consultations with the social partners, the Government dropped the package of reform bills, adopting instead the Amendment Act in April 2014, which provided that the Cabinet Bureau of Personnel Affairs would continue to make efforts to reach an agreement. The Government was still deliberating over the issue and was unable to point at any tangible progress. While tripartite consultations over legislative matters, in particular involving labour relations, were to be encouraged, these were virtually meaningless and could, in fact, be an obstacle, if they did not lead to any concrete action. The Government appeared to believe that the functions of the NPA was an adequate compensatory measure for the restrictions on basic labour rights of public sector workers. The NPA was a Government agency, its members were selected from the Diet rather than on a tripartite basis. There were no consultations with the most representative workers or employers' organizations. The NPA had the mandate to ensure working conditions and basic work related standards for public sector workers by making recommendations to the Government and municipal authorities. The implementation of recommendations adopted was entirely left up to political decisions and the process for deciding on whether and how recommendations were implemented was not transparent. By failing to ensure that it had the confidence of the social partners and that once decisions were taken, they were binding and fully and promptly implemented, the NPA fell short of the standard for compensatory measures under the Convention. The Government should take without further delay the necessary measures to demonstrate its respect to fundamental rights of workers and commitment to an open and democratic society.

The Employer member of Japan (Mr MATSUI) regretted that the workers concerned and the Government had been unable to address the problem and that the latter was brought before the Committee. Taking the case before the ILO would not necessarily result in finding a solution. Japanese employers fully supported the information provided by the Government. As regards the situation of firefighters, he recalled that their role was different from those in other countries and considered that national contexts should be taken into consideration. Efforts had been made by all stakeholders concerned. On 1 June 2018, the opposition parties, backed by JTUC–RENGO, had submitted a bill providing for the right to collective bargaining for all workers and abolishing the NPA. Japanese workers needed to convince the population with a view to obtaining their support so that the Parliament would be prepared to discuss the bill. While the comments and recommendations from the supervisory bodies were not binding, they could be fully observed if they had taken into account national circumstances. This also applied for the rights of prison officers which had never been discussed at the national level. The speaker expressed his strong belief that parties would better address their problem by themselves rather than relying on international forums.

The Worker member of Japan (Mr KAWAMOTO) indicated that Japan had continued to violate Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in respect of basic labour rights for public employees. The violations included denial of the right to form organizations without prior approval and the appointment of full-time union officers by the authority. The right to organize of firefighting personnel and prison officers was denied by law. Attempts to assist in improving the situation had been made through reports and recommendations of the supervisory bodies, including the Dreyer Commission that had visited Japan for fact-finding and conciliation. The issues remained unresolved. The Government had submitted to the Diet bills to reform the national public service (June 2011) and the local public service (November 2012), drafted in consultations between the Government and relevant unions including JTUC–

RENGO. These bills, if adopted, would have granted the right to organize to firefighting personnel. The bills, however, lapsed due to the dissolution of the House of Representatives in November 2012. The Committee of Experts had noted this situation with regret. No legislative measures had been proposed since then. During the recovery and reconstruction process after the Great East Japan Earthquake of 11 March 2011, public service employees, including firefighters, performed their duties despite lack of previous experience and sufficient information. This was above all due to their strong sense of mission to protect the lives and properties of citizens. The Government and other parties had asserted that granting the right to organize would have hampered discharging the duties of firefighters. However, the performance of duties and the guaranteeing of the right to organize were entirely separate matters. The speaker called for an immediate granting of the right to organize to the fire defence personnel. The speaker also referred to a case of national forest service employees, whose trade union rights had been curtailed. They had the right to conclude collective agreements. However, they had lost this right when the source of funding for the national forest service had been changed from a special account to a general account.

The speaker recalled the autonomous labour–employer relations system provided for under section 12 of the Basic Act on the Reform of National Civil Service. Since 2014, the Government had been reiterating that there was a need to continue careful consideration of the situation; to that end, it had conducted surveys and exchanged views on an ad hoc basis. It was to be regretted, however, that no tangible results had been achieved so far. The JTUC–RENGO had reported this inaction and the lack of any intention of the Government to resolve the issues before the Committee of Experts and the Committee on Freedom of Association.

In conclusion, the speaker expressed the hope that the discussion and conclusions of the Committee would lead to a sincere response and commitment from the Government to resolve the issues concerning basic labour rights of the public service employees. The JTUC–RENGO reiterated its readiness to make every effort in this regard.

The Government member of Norway (Ms JARBO), speaking on behalf of the Nordic countries, Denmark, Finland, Iceland, Norway and Sweden, recalled that this was a longstanding case which dealt with the right to organize, especially for firefighters and prison guards, and the right to strike in the public sector. The right to organize of public employees was important in order to ensure that there was an independent and strong voice at all levels, including the workplace. The processes of collective bargaining and workplace consultations were in many ways the same in the public and private sectors. However, public service had its own particularities and there were services where the right to strike could be restricted. The Committee of Experts had accepted that the right to strike could be restricted or prohibited in the public service for public servants exercising authority in the name of the State or when a total and prolonged stoppage could result in serious consequences for the public. A negotiated minimum service could be maintained in some cases. In relation to the situation in the Nordic countries, the right to strike in the public sector was extensive. There were few restrictions, imposed through ad-hoc laws or agreed between the social partners in collective agreements, based on the public interest. The Government was encouraged to ensure continued social dialogue and progress in this matter.

The Worker member of Poland (Ms PODGÓRSKA-RAKIEL) pointed out to the lack of progress despite the fact that the Committee had repeatedly examined this case, most recently in 2008, when it had called on the Government to ensure that public servants had the rights guaranteed under the Convention and that firefighters enjoyed the right to organize without interference from the public authorities. Nevertheless, both were still excluded from the right to join or establish trade unions under the Local Public Service Act and the National Public Service Act. Already in 1973, the Committee of Experts had considered that the functions of fire defence personnel were not of such a nature as to exclude this category of workers under Article 9 of the Convention. The exclusion of police or armed forces could be justified only on the basis of their responsibility for the external and internal security of the State. Furthermore prison officers, by the nature of their duties, were included in the

category of police and denied the right to organize. That was not in accordance with the ILO standards. The speaker condemned the Government's failure to guarantee freedom of association to firefighters and prison staff in law and in practice and called on the Government to consult with social partners including representatives of firefighters and prison officers with a view to finding a solution.

The Worker member of Singapore (Ms CHOO), speaking on behalf of the worker members of France, the Australian Council of Trade Unions (ACTU), the Cambodian Labour Confederation (CLC), the Confederation of Indonesian Prosperity Trade Union (KSBSI), the Federation of Korean Trade Unions (FKTU), the Korean Confederation of Trade Unions (KCTU), the Malaysian Trade Unions Congress (MTUC), the Confederation of Trade Unions of Myanmar (CTUM), the Pakistan Workers' Federation (PWF), the Federation of Free Workers (FFW) (Philippines), and the Singapore National Trades Union Congress (SNTUC), stated that Japan's public service employees faced restrictions on the basic labour rights. A third party organization had been established as a compensatory measure to regulate salaries and working conditions of public employees, matters which would normally be settled through labour-management negotiations. The Committee of Experts had been clear that mechanisms of compensatory measures must ensure impartial and speedy conciliation and arbitration procedures, in which the parties had confidence and could participate at all stages, and in which the awards, once made, were binding and fully and promptly implemented. In that sense, the compensatory measures proposed by the Government fell short. Specifically, the NPA, a third-party organization, had been established under the jurisdiction of the Cabinet, which appointed the commissioners. This had resulted in an organization lacking in impartiality. Further, the ability of the parties to participate at all stages of the procedures should not be limited to simply participating in meetings; the parties should be able to exchange opinions, persuade, consent and make concessions, without which, the confidence of the people concerned could not be earned. In addition, while the NPA made annual salary recommendations, these were not binding on

the Government, who was also the employer. In this respect, it should be recalled that while the Government had the financial authority and responsibility, the inseparable issues of salaries and working conditions were to be settled through labour–management negotiations; thus both parties had a shared responsibility over that matter. To conclude, she emphasized the importance of basic labour rights, open labour relations and labour–management relationship where the parties shared the responsibility over the matters of their mutual interests for a well-functioning democracy.

An observer representing Public Service International (PSI) (Ms PAVANELLI)

recalled that while the right of firefighters to organize had been discussed at length by the Committee on Freedom of Association since 1954, the Committee of Experts since 1973, and this Committee since 1973, no concrete steps towards the full application of the Convention had been taken by the Government. To address the issue, in 1996, the Government had established the FDPC system with the purpose of achieving mutual understanding by eliciting opinions from the firefighters. The Government emphasized the smooth operation of this system and its success to improve wages, working conditions, clothing, equipment and other facilities to justify the rationality of not conferring the right to organize to firefighters. However, the recognition of firefighters’ right to organize and attempts to improve current working conditions and the workplace environment were different matters. The Committee of Experts and the Committee on Freedom of Association had considered that when the right to engage in labour disputes was restricted, the existence of compensatory measures was a necessary condition. These could not apply to the right to organize, as compensatory measures would assume the denial of the right itself. In other words, the FDPC was not a compensatory mechanism as it denied the right to organize. Although the Committee of Experts and the Committee on Freedom of Association had provided some positive assessments of the operational status and effects of the FDPC system, they continued to call on the Government to ensure that firefighters enjoyed the right to organize and the right to collective bargaining. A tripartite expert meeting, held in April

2018, had confirmed the relevance of the obligations under Conventions Nos 87 and 98 when adopting the ILO Guidelines on decent work in public emergency services, which included firefighters. The Committee's conclusions should therefore be directed at ensuring that the Government complied with the Convention.

The Worker member of the United Kingdom (Ms. REED) stated that freedom of association, enshrined in the ILO Constitution and recognized by the Declaration of Philadelphia, was essential to any free and open society, and central to dispute resolution and to promoting democracy. The Government's failure to provide firefighters with the right to organize was therefore of serious concern, and had been repeatedly criticized by the ILO supervisory bodies since the early 1970s. In the United Kingdom, the Fire Brigades Union (FBU) negotiated with employers over pay and working conditions through the National Joint Council for Local Authority Fire and Rescue Services. In order to protect the lives and safety of the population, firefighters exercised their right to take industrial action while entering into voluntary agreements to return to work in the event of major incidents. A 2010 Japanese Government survey on the impact of conferring the right to organize on firefighters in 22 countries had identified no adverse effects, suggesting that the current ban was based, not on evidence, but on the Government's own views. It sought to justify those by aligning firefighters with military personnel and police, given the public nature of their duties. Such arguments could be self-defeating: in the United Kingdom, effective social partnership had proved vital to improving fire services, as when the FBU worked with fire authorities to investigate deaths while on duty in order to prevent future fatalities. Depriving firefighters of the right to organize on such grounds was inconsistent with Article 9 of the Convention. The Government's failure to comply was serious and warranted criticism. The speaker called on the Government to extend the rights to join trade unions and to negotiate collectively as a matter of urgency.

An observer representing Education International (EI) (Ms MARLET), speaking on behalf of the Japan teachers union, Nikkyoso, addressed the lack of basic bargaining

rights in the public sector, the inadequate system for overtime compensation and the disparities between public and private workers in this regard. Teachers and education stakeholders had to be involved in the reforms affecting their sector. Their lack of involvement was detrimental to the quality of education. According to the ILO/UNESCO Recommendation concerning the Status of Teachers (1966) and comments from the ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), reforms and decisions regarding the status and working conditions of educational personnel should be negotiated between the unions and the Government. However, in Japan, educational personnel did not enjoy basic labour rights; decisions regarding salaries were left to third-party organizations; and overtime was not compensated. A recent survey had shown that 72 per cent of elementary school teachers and 86 per cent of junior high school teachers worked more than 60 hours per week. The restoration of labour rights of all public service employees was necessary so as to ensure the effective application of the Convention as well as to redress the persistent inequality between public and private sector employees.

The Government representative stated that with respect to the autonomous labour–employer relations system it was essential to achieve “the understanding of the people” as provided for in section 12 of the Basic Act on the Reform of National Civil Service. This condition had not yet been met and the situation should continue to be carefully considered. The Government would endeavour to maintain good relations with employees’ organizations and to strive for mutual understanding through social dialogue on various matters. The speaker reiterated the unique background of the fire service in Japan. The fire defence personnel did not have the right to organize because the firefighting service was considered to be of a similar nature to the police. The service had been historically part of the police system and played an important role in emergency situations. She also reiterated the usefulness of the FDPC system, a compensatory mechanism for the absence of the right to organize. Considerations were currently given to improving the system’s operation. The

Government had been engaging in social dialogue with representatives of firefighters, labour representatives such as JICHIRO and with employers' representatives and would continue to do so in the future.

The Worker members reiterated that firefighters and prison staff continued to be denied their most fundamental right to join or form a trade union. There were also serious limitations imposed on the basic rights of public sector workers as well as the absence of the autonomous labour–employer relations system. The Government had failed to make the distinction between employees exercising authority in the name of the State and workers engaged in essential services, who would require compensatory guarantees if their right to strike was legitimately limited and all other employees in the public services who should be able to exercise the right to strike. The Government appeared to believe that the institutions set up to represent the interest of workers constituted adequate compensatory measures. However, these institutions lacked autonomy, independence and were therefore not sufficient in advancing collective rights and interests of workers. Japan's laws and practices were not in conformity with the Convention. The Worker members deplored the fact that no meaningful progress had been made on these issues and expected the Government to finally take the necessary measures to ensure that firefighters and prison staff may form and join the organizations of their own choosing. The Government must urgently enter into time-bound consultation with the social partners in order to establish the autonomous labour–employer relations system to ensure basic labour rights for public service employees. This process must be completed within the next two years. The Government should report progress to the Committee of Experts by 2020. Workers in the public sector who were not exercising authority in the name of the State and who were not working in essential services in the strict sense of the term must have the right to strike and to exercise industrial action without risk of sanction. The procedures of the NPA were flawed and should be reviewed in consultation with the social partners to ensure impartial and speedy conciliation and arbitration procedures in which the parties had confidence. They expressed the hope that this

discussion would be taken as an important opportunity by the Government in order to ensure the effective application of this fundamental Convention once and for all. This required a real commitment from the Government to engage its social partners in a dialogue to make tangible progress. The Government must fulfil its obligations and report on the measures taken thereon in its next report. The Worker members called on the Government to accept an ILO direct contacts mission to support and assess progress made.

The Employer members recalled the divergence of views with regard to the right to strike and the impact of that on the discussion of the case. The comments of the Committee of Experts concerning the right to strike of members of essential services, and issues related to that, fell outside the scope of the express provisions of the Conventions. They were to be left to the Government to regulate at the national level. Given the restriction on the right to organize of firefighters, the Government had established the FDPC system as a compensatory scheme. A number of interventions had discussed the effectiveness of that system. In light of the criticisms of the system's functioning by trade unions, the Employer members understood that the Government planned a new initiative which included fact-finding surveys of the system's operation. The Government should take those steps and provide information about it in time for examination by the Committee of Experts. Finally, with respect to prison officers, it could be argued that, by the nature of their duties, prison officers were part of the police as they were responsible for the internal security of the State, and therefore covered by Article 9 of the Convention. The Employer members noted that more information was needed: while certain categories could be considered police, others could not. They encouraged the Government to give due consideration to the situation of those prison officers exempted from full application of the Convention, and encouraged it to provide information, before the next meeting, about the compensatory scheme that allowed some participation of officers. The Employer members were encouraged by the constructive attitude and the stated commitment of the Government to move this issue forward, and they looked forward to more information.

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The sitting closed at 8.05 p.m.

La séance est levée à 8 h 05.

Se levantó la sesión a las 8.05 horas.

DRAFT