

- (c) *The Committee refers the legislative aspect of this case to the Committee of Experts on the Application of Conventions and Recommendations, which is already dealing with the matter.*

CASES NOS 2177 AND 2183

INTERIM REPORT

**Complaints against the Government of Japan
presented by**

Case No. 2177

– **the Japanese Trade Union Confederation (JTUC–RENGO)**

Case No. 2183

– **the National Confederation of Trade Unions (ZENROREN)**

Allegations: At its origin, the complainants had alleged that the reform of the public service legislation was developed without proper consultation of workers' organizations, further aggravating the existing public service legislation and maintaining the restrictions on the basic trade union rights of public employees, without adequate compensation. Following extensive consultations, they now demand rapid guarantees for their basic labour rights

328. The Committee has already examined the substance of this case on eight occasions, most recently at its March 2013 meeting, when it presented an interim report to the Governing Body [367th Report, paras 814–850, approved by the Governing Body at its 317th Session (March 2013)].

329. The Japanese Trade Union Confederation (JTUC–RENGO) (Case No. 2177) submitted additional information in communications dated 29 August 2013 and 6 January 2014. The National Confederation of Trade Unions (ZENROREN) (Case No. 2183) submitted additional information in a communication dated 6 November 2013.

330. The Government sent its observations in a communication dated 11 April 2014.

331. Japan has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

A. Previous examination of the case

332. At its March 2013 meeting, the Committee made the following recommendations [see 367th Report, para. 850].

- (a) Noting the Government's indication that the new Administration which came into power on 26 December 2012 will review the past progress and examine the concrete content of

the national and local civil service reforms, the Committee urges the Government to pursue full, frank and meaningful consultations with all interested parties on these issues and to take the necessary measures so that the reform of the public service, along the lines of its recommendations, may be completed, without further delay, in order to ensure full respect for the freedom of association principles embodied in Conventions Nos 87 and 98, ratified by Japan, in particular as regards:

- (i) granting basic labour rights to public servants;
- (ii) fully granting the right to organize and to collective bargaining to firefighters and prison staff;
- (iii) ensuring that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures;
- (iv) ensuring that those public employees who are not exercising authority in the name of the State can enjoy the right to strike, in conformity with freedom of association principles, and that union members and officials who exercise legitimately this right are not subject to heavy civil or criminal penalties; and
- (v) the scope of bargaining matters in the public service.

The Committee requests the Government to keep it informed of developments on all the above issues, and to indicate whether the bills on the public service reform at national and local levels that were submitted to the Parliament prior to its dissolution have been resubmitted for consideration.

- (b) The Committee requests the Government to keep it informed of the results of the lawsuit filed by KOKKOROREN against the Diet in the Tokyo District Court on 25 May 2012, as well as of the lawsuits filed by the employees' unions of a number of national university corporations against the university management for the payment of the wage loss as a result of the wage-cut measures.

B. Additional information from the complainants

333. In its communication dated 29 August 2013, JTUC-RENGO indicates that, while under the National Civil Service Reform Law, the time limit for the implementation of the reforms and the running of the Headquarters to Promote Civil Service Reform was set as July 2013, the bills related to the reform of the national public service, including restoring basic labour rights, have yet to be tabled in the Diet. On 12 February 2013, the Budget Committee, in response to the CFA recommendations, had stated that they have no intention of resubmitting bills which have already been rejected by the previous Diet session.

334. On 22 February 2013, the newly appointed Minister in charge of Civil Service Reforms, set up the Civil Service Reform of the Future discussion group, which had also discussed the setting up an autonomous industrial relations system. The Alliance of Public Service Workers Unions (APU) was called to the seventh meeting on 3 June 2013 as a concerned party.

335. On 28 June 2013, when the Headquarters to Promote Civil Service Reform was due to be disbanded, the government approved the policy document "Civil Service Reform of the Future", within the Headquarters. Specifically, the Government plans to construct a legal framework based on the Amendment Bill for the National Public Service Act, which was approved by Cabinet in 2009 then submit related bills to the extraordinary Diet session in autumn and set up a Cabinet National Personnel Bureau in spring 2014. However, problematically, there has been no mention whatsoever of establishing an autonomous industrial relations system which restores basic labour rights.

- 336.** The JTUC–RENGO urges the Committee to assure that the Government makes every effort, in designing future institutions, to conduct adequate and careful deliberations with labour and management and to build consensus. The new Government has not only disclaimed the previous Government’s measures to reform legal systems so that Conventions Nos 87 and 98, which embody the principle of freedom of association, are at least respected, but has also not made clear that it will take measures to find solutions to the issues in ILO recommendations that have been communicated eight times.
- 337.** The JTUC–RENGO further asserts that, on 24 January 2013, regarding local public service wages, which are determined by each local government, based on the main objective of local autonomy, the Cabinet decided “to request all local public bodies to reduce the wages of local public servants in line with wage reductions for national public servants”. Also, in the 2013 Budget, the national Government unilaterally decided to reduce some parts used as payroll financial resources for local public servants in the local tax grants. Tax grants are financial resources specific to local governments, to be used by them as they see fit. As a result of this decision, not only trade unions, but also the National Governors’ Association, which is made up of the heads of local governments, and other local groups have protested strongly. However, the pressure on what is, in effect, payroll financial resources is functioning as an actual forced cutback for workers and management and many local governments are in the situation where they have no choice but to reduce the workers’ wages.
- 338.** As of 1 July 2013, 826 local government bodies (46.2 per cent) had already cut wages and 133 (7.4 per cent) were planning to or deliberating on wage cuts. Some 368 bodies (20.6 per cent) said wage cuts were under consideration or planning to be considered. Compared to this, 230 bodies (12.9 per cent) were planning not to cut wages.
- 339.** The national Government’s requesting a wage cut for local public servants is an unjust intervention in terms of the local autonomy of the Government as well as independent industrial relations. JTUC–RENGO deeply regrets that the Government which has executive responsibility grounded in laws and the right to submit bills to the Diet, has made such a request. While the Government continues to repress the basic labour rights of local public servants, which has been a legislative policy issue for over 60 years, wage settlement through the National Personnel Authority (NPA) recommendation has been in part a compensation measure for this repression. It is an extremely serious issue that the Government has unilaterally forced the abandonment of the NPA recommendation system.
- 340.** In its communication dated 6 January 2014, the JTUC–RENGO further informs that on 5 November 2013, the Government approved the Bill for Partial Amendment of the National Public Service Act (hereafter “government Bill”) by cabinet decision, and submitted the Bill to the 185th extraordinary Diet session, convened on 15 October 2013. The JTUC–RENGO expresses its regret that the government Bill has totally failed to include measures regarding autonomous industrial relations and runs contrary to the recommendations of the Committee and of Conventions Nos 87 and 98.
- 341.** On 20 November 2013, the Democratic Party of Japan (DPJ) submitted to the Diet a “Bill for an Act on the Labour Relationships of National Public Servants” (hereafter “counterproposal”) which embodied the same content as the four bills related to the reform of the national public service and the two bills for the reform of the local public service that the DPJ had submitted to the Diet when it was the ruling party.
- 342.** In the Lower House plenary session dedicated to deliberation of the government Bill on 22 November 2013, the JTUC–RENGO indicates that the Minister in charge of Civil Service Reform, announced the view that “The ILO has issued recommendations concerning restrictions on the basic labour rights of the public servants in our country, but

it is my perception that they basically request that the Government hold sufficient talks with related parties on the civil service reform and continue to provide information to the ILO regarding developments in the reform.” JTUC–RENGO is concerned about a re-enactment of the situation pointed out in paragraph 651 of the Committee’s 329th Report (November 2002) that states, “the Committee is bound to conclude that whilst a number of meetings were held, the views of representative organizations of public employees, at national and local levels, might have been listened to but were not acted upon”. The JTUC–RENGO therefore requests the Committee to make clear its definitive view on “consultation and dialogue with the related parties” in order to prevent this happening again.

- 343.** Additionally, on 3 December 2013, the governing LDP/New Komeito and the opposition DPJ made an agreement on attaching an additional resolution at the time of the vote in the Cabinet Committee in the 2014 ordinary Diet session. The resolution reads as follows: “Regarding an autonomous industrial relations system, the Government will carry out the necessary exchange of views with the employees’ organization(s) in efforts to form an agreement.”
- 344.** In the 185th extraordinary Diet session, the government Bill and the counterproposal were carried over to the next session of the Diet, but the above events are an indication that, despite the receipt of eight ILO recommendations, the Government still has not taken measures regarding the legal amendments for minimum compliance with the principles of freedom of association embodied in Conventions Nos 87 and 98, nor has it made its position clear on the resolution of this issue.
- 345.** Regarding the “national Government’s appeal to reduce wages for local public servants”, the latest information shows that as of October 2013, 1,069 (59.8 per cent) local government bodies had “completed the wage reduction implementation”, 31 (1.7 per cent) bodies were “scheduled to implement or in consultation on wage reductions” and 203 (11.3 per cent) bodies were “considering or will in the future consider wage reductions”. In contrast, 255 (14.3 per cent) bodies, had “no plan to implement wage reductions”. The JTUC–RENGO considers this evidence that the unilateral decision by the Government to constrict the real wage financial resources is in fact functioning as a compulsory wage reduction for labour and management, and that the circumstances under which many local governments have had little option but to defer to the national Government’s appeal and reduce wages for local public servants has led to an even more serious situation.
- 346.** The JTUC–RENGO reiterates that as well as being an unjustified intervention into local government and labour–management autonomy by the national Government, the Government’s appeal for the wage reduction is tantamount to maintaining the restrictions on local public servants’ basic labour rights while unilaterally and coercively obstructing the wage decisions made by the NPA recommendations which were a compensation measure for accepting the restrictions. Since there has been no deliberation toward a resolution of the problem of the basic labour rights of local public servants, including the granting of the firefighters’ right to organize, the JTUC–RENGO reports this to the Committee as a case involving renewed infringements of the principle of the freedom of association embodied in Conventions Nos 87 and 98.
- 347.** In its communication dated 8 January 2013, ZENROREN indicates that the Headquarters for the Promotion of National Public Service Personnel Reform (hereafter referred to as “the Headquarters”) led by the Prime Minister Abe on 28 June 2013 decided a document entitled “On the Coming Public Service Personnel Reform” that set out the guidelines for the “Reform” under the new Government. The document in question can be situated in the extension of the National Public Service Personnel Reform under the first Cabinet of Abe

(from September 2007 to August 2008). It says that “the new national public service personnel system should be designed in such a way that it will be managed with mobility in accordance with the Basic Law on National Public Service Personnel Reform (hereafter referred to as the Basic Law)”, but does not mention anything about restoring the basic labour rights guarantee to the public servants. This not only holds back the progress towards the restoration of the right to conclude labour agreements of public servants made by the previous Government by introducing to the Diet four bills related to the public personnel reform (these bills were later scrapped), but it also ignores article 12 of the Basic Law that says that “the Government shall present to the nation the entire picture of the benefits and the costs of expanding the scope of employees to whom the right to conclude labour agreements shall be accorded and with the understanding of the population, it shall establish a system of autonomous labour–management relations which will be open to the people.” If the Government really intended to implement a reform in accordance with the Basic Law, it should necessarily have taken up the question of restoring basic labour rights of the public personnel.

- 348.** ZENROREN indicates that the Government has announced that it would prepare a set of new reform bills following the Headquarters’ new guidelines. However, these new reform bills are likely to be the remake of the National Public Personnel Reform-related bills that were introduced to the Diet in March 2009 under the LDP-Komei Coalition Government but abandoned afterwards due to the dissolution of the House of Representatives in July of the same year. ZENROREN in its communication to the ILO dated March 2009 had pointed out the problems with these bills. What is most serious about these bills is that they would reduce the competences of the NPA, in particular through the transfer of the administration of salary scales that concern working conditions of the public personnel from the NPA to the Cabinet Personnel Bureau which fact may have negative impact on the basic labour rights of public servants.
- 349.** The NPA on 8 August this year made recommendations regarding working conditions of public personnel but failed to recommend a review of salaries although its own study on wages had revealed that national public servants salaries were 7.78 per cent (¥29,282) inferior to those in the private sector. It was the second time in a row since last year that the NPA refrained from making any recommendation regarding salaries. This testifies to the fact that the NPA is less and less functioning as a compensatory mechanism for the restriction placed on the fundamental labour rights of public servants.
- 350.** ZENROREN provides further information concerning the salary cut adopted by the Diet on 25 May 2012 and the lawsuit filed by Japan Federation of National Service Employees (KOKKOROREN) claiming that: (1) under the restriction of the basic labour rights, the law on salary cuts ignoring the NPA recommendation that is to compensate that restriction constitutes a violation of the Constitution and the relevant ILO Convention and is therefore invalid; (2) the fact that no collective bargaining was held with KOKKOROREN about the salary cut bill is tantamount to the violation of the right to collective bargaining, runs counter to the Constitution and the relevant ILO Convention and therefore the law is invalid.
- 351.** ZENROREN indicates that the position of the State of Japan asserts: (1) there is no violation of the Constitution, because the NPA recommendation which is a compensatory mechanism for the restriction of the basic labour rights does not bind legally either the Diet nor the Cabinet; and (2) that the national public employees do not have the right to conclude labour agreements and therefore they do not have the right to any collective bargaining that involves labour–management joint determination of working conditions. According to ZENROREN these claims of the State ignore the compensatory mechanism of the NPA recommendation for the restriction of the basic labour rights of the public employees and deny their right to collective bargaining. Based on these claims, and despite

the fact that the Government repeatedly explained that the salary cut law is an extraordinary measure limited to two years, the Government now suggests the possibility of taking a new salary lowering measure after the expiration of the salary cut law. Moreover, on 24 January 2013 the Government decided that it would request all the local governments in the country to implement by July 2013 an average salary reduction of 7.8 per cent of their employees, a reduction comparable to that applied to the national public employees. In addition, the Government unilaterally reduced, in the 2013 state budget the tax allocated to local governments for the personnel costs of their employees including school teachers as well as the share of state funding in compulsory education costs.

- 352.** According to ZENROREN, these measures constitute an interference with the salary determination of local public personnel which in the first place should be made autonomously under each local government according to the recommendations issued by the local personnel authority and through employee–employer negotiations. It is virtually an imposition of salary cut on the local governments by the central Government. Concerned about this situation, the National Association of Prefectural Governors has expressed its protest by issuing statements on several occasions. Similar statements have been issued by the National Association of City Mayors and the National Association of Towns and villages.
- 353.** Due to the reduction of tax allocation to local governments and the continuous interference of the Ministry of General Affairs, the local governments were forced to proceed with a salary cut comparable to that of state employees. Since July 2013, a total of 826 local governments (46.2 per cent of the total) have implemented a salary cut for their employees upon the “request” of the central Government. In many of the municipalities, employee–management negotiations have been neglected in the process and a salary cut was imposed unilaterally by the management.
- 354.** The Government has also urged the independent administrative institutions (IAIs) under its control as well as state-run universities to implement a salary cut comparable to that of state employees. As these public entities are evaluated by the Government or ministries for their performance, they fear to be evaluated negatively if they refuse to bend to the demand of the Government. As a result, in the hospitals for occupational diseases and accidents operated by an IAI “Workmen’s Health and Welfare Organization” in different regions of the country, the management has unilaterally cut the bonus disregarding the work rules agreed with the union. The union concerned has filed a complaint of unfair labour practice in the labour relations commission for relief order. In the case of state-run universities, since November 2012, the unions in eight universities across the country have lodged lawsuits in district tribunals for unilaterally decided salary reduction.
- 355.** In conclusion, while the Government of Japan continues to give priority to the reform of public personnel in its political agenda, it still disregards the Committee’s recommendation since it has not taken up the recovery of basic labour rights of public servants as an item to be considered with the reform. Ten years have passed since this case was filed in 2002. During all these years the Government has continued to ignore the recommendations made on eight occasions. ZENROREN strongly requests the Committee to press the Government of Japan to achieve a public personnel reform aimed at re-establishing the basic labour rights of public employees and to this end, to multiply consultations and negotiations with all the unions concerned.

C. The Government’s reply

- 356.** In its communication dated 11 April 2014, the Government indicates that the new Government which came into power on 26 December 2012 has held meetings of the

Advisory and Discussion Group for Civil Service Reform for the Future in order to make a comprehensive review and examination of a wide variety of reforms. Measures for the autonomous labour–employer relations system (Article 12 of the Reform Law) were discussed at the fourth meeting on 25 April 2013 where various opinions were heard including as regards the problems of the system that had been incorporated into the previous four civil reform related bills. At another meeting in June 2013, various views from personnel managers of some government ministries, mayors and the Alliance of Public Service Workers Unions were heard.

- 357.** On 5 November 2013, the Government submitted to the Diet the Amendment Bill of the National Public Service Employee Law. Carried over to the next session, the new bill was approved in the House of Representatives on 14 March 2014. The new bill does not include measures for the autonomous labour–employer relations system given that there were various issues with the system that had been incorporated in the previous bills. The Government has therefore had to continue to examine measures for the autonomous labour–employer relations system carefully. The Government however does not agree with the concerns raised by the ZENROREN that the competencies of the NPA would be reduced.
- 358.** The Government states that it has held regular discussions with the relevant trade unions on this matter up to the submission of the bill to the Diet. The new bill includes elements that approach some of the ideas of the relevant trade unions such as the fact that the NPA continues to have authority over affairs ensuring fairness in appointment of national public service employees and the provision that the Prime Minister sufficiently respect opinions of the NPA in case of deciding or revising the fixed number of posts in each job grade is established.
- 359.** In reply to the complainants’ additional information, the Government emphasizes that it held discussions with the relevant trade unions taking requests from the Committee into consideration. In addition, the new bill set measures that the Cabinet Bureau of Personnel Affairs is going to take charge of examining measures for the autonomous labour–employer relations system in article 12 of the Reform Law with continuous hearing from those concerned.
- 360.** In terms of the local public service reform, meetings heard the views of a mayor of local government and the APU. In accordance with the supplementary provision of the reform law which provides that the Government should examine what the labour rights of local public service employees should be in a manner consistent with the measures for the labour–employer relations system of national public employees in article 12, the Government will examine the handling of measures for local public service reform, including the above, by hearing from those concerned.
- 361.** In March 2014, the Government submitted an amendment Bill of the Local Public Service Law and the Local Incorporated Administrative Agency Law to the Diet, which is aimed at building ability and performance–based personnel treatment system by introducing personnel evaluation and proper local public employees’ business appointment. In planning this law, the Government had various meetings with the APU.
- 362.** As regards the reduction in remuneration of national public service employees, the Government reiterates that this special measure was taken on a temporary basis since additional cuts in the annual expenditure were indispensable, taking into consideration the severe national fiscal situation and the necessity to respond to the great east Japan earthquake. This special measure was implemented for two years and ended on 31 March 2014.

- 363.** As regards the remuneration of local public service employees, the Minister for Internal Affairs and Communication had requested each local government to devise some method of revision in accordance with the Revision and Special Temporary Measures on Remuneration Law and following the measure to cope with pressing issues, quickly and appropriately, based on the necessity of projects of disaster prevention and disaster reduction and revitalizing the regional economies. The Minister held several conferences made up of six national associations of chief executives or chairs of local government assemblies to discuss. The Minister wrote to the chief executives of local government emphasizing that this was a temporary measure as an urgent solution to concentrate the entire capacity of the national and local governments on the current largest mission of Japan's revitalization. As remuneration in this case is a local government matter, the request could not force the reduction in remuneration. The final decisions were taken through discussion in assemblies and the request never altered the independent process of local government. This is demonstrated by the fact that a certain number of local governments did not reduce the remuneration.
- 364.** The Government indicates that it will provide the Committee with information of the results of the lawsuits brought by KOKKOROREN and by a number of unions of national university corporations. As regards the latter, the Government qualifies that employees of national university corporations are not classified as civil servants and have the right to organize and engage in collective bargaining. The Government had requested national university corporations to take necessary measures to consider the salary review for national civil servants while being cognizant of the autonomous and independent nature of management-labour relations.
- 365.** In conclusion, the Government states that it has done its utmost to have meaningful discussions and achieve fruitful civil service reform, bearing in mind the basic idea that frank exchanges of view and coordination with relevant organizations are necessary. The Government will continue to take such an approach and to refer to the Committee's recommendations. It will continue to provide the Committee with timely and relevant information and requests the Committee to recognize the current situation as well as the sincerity of its efforts on this matter.

D. The Committee's conclusions

- 366.** *The Committee recalls that these cases, initially filed in 2002, concern the reform of the public service in Japan. The Committee notes that both the Government and the complainant organizations provide detailed information on the most recent steps taken in this reform process, as well as in the process of revising the remuneration of public employees.*
- 367.** *With regard to the national public service reform, in its previous examination of this case, the Committee had expressed its regret that, despite the progress which had been achieved towards the elaboration of a reform of the public service in Japan which would have included a number of basic labour rights for national public service employees, in the end none of these measures were adopted.*
- 368.** *With regard to the local public service reform, the Committee recalls that the amendment bills that had been submitted to the Diet in November 2012, but dropped from the agenda pursuant to its dissolution due to the elections, had included the following important steps toward the development of a framework for autonomous labour relations: (1) granting the right to conclude collective agreements to local public service employees in the non-operational sector, with the exclusion of the personnel making important administrative decisions and the personnel whose right to organize would continue to be restricted and who would benefit from appropriate compensatory measures; (2) establishing the matters*

to be handled by collective bargaining, as well as the procedures thereof and the parties thereto; (3) prohibition and examination of unfair labour practices; (4) procedures for conciliation, mediation and arbitration by the Central Labour Relations Commission and the Prefectural Labour Relations Commission; and (5) granting the right to organize and collective bargaining to fire defence personnel (not including the right to conclude collective agreements). The Committee urged the Government to pursue full, frank and meaningful consultations with all interested parties on these issues and expected that the Government would make every effort to complete the civil service reform without any further delay given the time that had elapsed since the complaint was filed and the long and intensive dialogue in which the Government and the social partners had been engaged in order to ensure full respect for the freedom of association principles embodied in Conventions Nos 87 and 98, ratified by Japan.

- 369.** *The Committee notes the Government's statement that the Amendment Bill of the National Public Service Employee Law, which has now been approved by the Diet, does not include measures for the autonomous labour–employer relations system given that there were various issues with the system that had been incorporated in the previous bills. The Committee further notes the Government's statement that under the new bill the Cabinet Bureau of Personnel Affairs is going to take charge of examining measures for the autonomous labour–employer relations system in article 12 of the Reform Law with continuous hearing of those concerned. In terms of the local public service, the Government has indicated that it will examine the handling of measures for local public service reform by hearing from those concerned.*
- 370.** *The Committee regrets that, over ten years since the filing of this complaint, no concrete measures have yet been taken to provide basic labour rights to the public service and urges the Government to take the necessary measures in consultation with the social partners concerned, without further delay, to ensure basic labour rights for public service employees in line with its previous recommendations. The Committee expects that the necessary legislative amendments will be submitted to the Diet without delay and requests the Government to keep it informed of developments in this regard.*
- 371.** *As regards the allegations concerning the unilateral reduction of the national public service employees' wage, the pressure for reduction of local public employee wages, the degradation of the NPA recommendation system, and the urgent need to restore basic labour rights for public sector employees to avoid such situations in the future, the Committee notes the Government's reiteration that the reduction in wages of national public service employees was indispensable taking into consideration the severe national fiscal situation and the necessity to respond to the great east Japan earthquake. The Government confirms that this special measure was implemented for two years and ended on 31 March 2014. As regards local employees, the Committee notes the Government's statement that it cannot impose such a reduction but did need to draw local governments' attention to the serious need to respond to this situation. As regards employees of national university corporations, they are not classified as civil servants and thus have the right to organize and engage in collective bargaining, therefore the Government was cognizant of the autonomous and independent nature of management–labour relations when requesting that measures be taken to consider the salary review.*
- 372.** *The Committee takes note of the information provided by ZENROREN that the Japan Federation of National Service Employees (KOKKOROREN) filed a lawsuit against the salary cut adopted by the Diet on 25 May 2012 claiming that: (1) under the restriction of the basic labour rights, the law on salary cuts ignoring the NPA recommendation that is to compensate that restriction constitutes a violation of the Constitution and the relevant ILO Convention and is therefore invalid; and that (2) the fact that no collective bargaining was held with KOKKOROREN about the salary cut bill is tantamount to the violation of the*

right to collective bargaining, which runs counter to the Constitution and the relevant ILO Convention and is therefore invalid. The Committee requests the Government and the complainant to provide information on the results of this lawsuit, as well as those that were brought concerning the unilateral cut at the “Workmen’s Health and Welfare Organization” and those concerning the wage cut measures at eight state-run universities.

- 373.** *As a general matter, in cases where the Government has resorted to statutory limitations on collective bargaining, the Committee stresses that repeated recourse could, in the long term, only prove harmful and destabilize labour relations, as it deprives workers of a fundamental right and means of furthering and defending their economic and social interests. Where the budgetary powers lay with the legislative authority, a fair and reasonable compromise should be sought between the need to preserve as far as possible the autonomy of the bargaining parties, on the one hand, and measures which must be taken by governments to overcome their budgetary difficulties, on the other [see **Digest of decisions and principles of the Freedom of Association Committee**, fifth (revised) edition, 2006, paras 1000 and 1035].*
- 374.** *The Committee further notes the concerns raised in the complaints that the authority of the NPA recommendations on wage settlement, which acts as a compensatory measure until the basic labour rights are granted to public servants, has been undermined. It further notes the concerns raised with respect to possible transfer of authority relating to the administration of salary scales to the cabinet personnel bureau. The Committee requests the Government to provide detailed information on the NPA’s functioning in the current context and any proposals for its revision.*

The Committee’s recommendations

- 375.** *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*
- (a) The Committee urges the Government to take the necessary measures, without further delay, in consultation with the social partners concerned to ensure basic labour rights for public service employees in full respect for the freedom of association principles embodied in Conventions Nos 87 and 98, ratified by Japan, in particular as regards:*
 - (i) granting basic labour rights to public servants;*
 - (ii) fully granting the right to organize and to collective bargaining to firefighters and prison staff;*
 - (iii) ensuring that public employees not engaged in the administration of the State have the right to bargain collectively and to conclude collective agreements, and that those employees whose bargaining rights can be legitimately restricted enjoy adequate compensatory procedures;*
 - (iv) ensuring that those public employees who are not exercising authority in the name of the State can enjoy the right to strike, in conformity with freedom of association principles, and that union members and officials who exercise legitimately this right are not subject to heavy civil or criminal penalties; and*
 - (v) the scope of bargaining matters in the public service.*

The Committee expects that the necessary legislative amendments will be submitted to the Diet without delay and requests the Government to keep it informed of developments in this regard.

- (b) *The Committee requests the Government and the complainant organizations to keep it informed of the results of the lawsuit filed by KOKKOROREN, as well as of the lawsuits concerning the unilateral cut at the “Workmen’s” Health and Welfare Organizations and those filed by the employees’ unions of a number of national university corporations against the university management for the wage-cut measures.*
- (c) *The Committee requests the Government to provide detailed information on the functioning of the National Personnel Authority in the current context and any proposals for its revision.*

CASE NO. 3024

INTERIM REPORT

**Complaint against the Government of Morocco
presented by
the Democratic Federation of Labour (FDT)**

Allegations: The complainant organization reports the authorities’ exclusion of the Democratic Union of the Judiciary (SDJ) from all collective bargaining despite it being the most representative organization in the sector, harassment of the organization’s members and the violent dispersal of peaceful demonstrations by the security forces

- 376.** The complaint is contained in a communication from the Democratic Federation of Labour (FDT) dated 24 March 2013.
- 377.** The Government sent its reply in a communication dated 4 July 2013.
- 378.** Morocco has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as well as the Workers’ Representatives Convention, 1971 (No. 135), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154). It has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

A. The complainant’s allegations

- 379.** In a communication dated 24 March 2013, the FDT states that in 2011 Morocco drafted and approved a new Constitution enshrining freedoms and human rights. Of particular note are article 8, which emphasizes the role of trade union organizations in the protection of members’ social and economic interests and rights and encourages the public authorities to engage in collective bargaining, and article 29, which guarantees the freedom to join a