

Basic Labor Rights and Significance of NPA Recommendation 10

Alternative measures, with the NPA Recommendation System as the core, are taken for national public employees as compensation for restriction of basic labor rights.

Current Situation of Basic Labor Rights

Category		Right to Organize	Right of Collective Bargaining		Right to Strike
				Right to Conclude Collective Agreements	
National public employees	Employees under the Remuneration Act	○	△ (※2)	×	×
	Police officers Coast Guard officials Penal institution employees	×	×	×	×
	Employees of agencies engaged in administrative execution	○	○	○	×

※1 ○ indicates a right recognized; △ indicates a right partially denied; and x indicates a right denied.

※2 Labor-management negotiations can be carried out.

Regarding ILO Convention No. 98 (Right to Organise and Collective Bargaining Convention, 1949)

The ILO allows the restriction of the right of collective bargaining and the right to strike of public employees who engage in the administration of the national government; and in such a case, the ILO demands that sufficient protection of the employees' interests be properly guaranteed.

Methods to Revise Remuneration of National Public Employees in Other Countries

1. The remuneration is decided by the government without conducting labor-management negotiations.
 - ▶ Regarding federal employees in the United States, the revision rate of their base salary (calculation method) is stipulated in the law. The President's Pay Agent makes recommendations and the President decides the locality pay.
 - ▶ Regarding Senior Civil Service in the United Kingdom, the Review Body on Senior Salaries makes recommendations and the Prime Minister decides the remuneration.
 - ▶ Regarding civil servants (*Beamte*) in Germany, the Parliament decides the remuneration after the government hears the opinions of labor unions.
2. Labor-management negotiations are carried out to conclude collective agreements.
 - ▶ Regarding regular civil servants in the United Kingdom, negotiations on distribution within the Pay Remit are carried out in each department, and collective agreements are concluded.
 - ▶ Regarding public employees (*Tarifbeschäftigte*) in Germany, the effect of collective agreements does not depend on the presence or absence of a budget. Virtually, however, negotiations are carried out in coordination with the budget to conclude collective agreements.
3. Labor-management negotiations may be carried out, but the right to conclude collective agreements is not permitted.
 - ▶ Regarding public servants in France, they are permitted to carry out strikes. The government, however, decides whether or not to conduct labor-management negotiations. Generally, remuneration is revised by amendments of Cabinet Order.

Significance of NPA Recommendation indicated by Supreme Court of Japan

According to the Supreme Court, the NPA Recommendation System is deemed to be the compensatory measure for restriction of basic labor rights.

Judgement of the Zennorin (National Union for Agriculture and Forestry Workers) Keishokuho (Police Official Duties Execution Act) Case (rendered by the Grand Bench of the Supreme Court on April 25, 1973)

The Zennorin Keishokuho case was a case wherein the executives of the labor union of Zennorin were accused of the violation of the National Public Service Act (NPSA) on the grounds that they incited public officials to participate in acts of dispute, etc. This case addressed the constitutionality of restrictions of basic labor rights in the NPSA.

According to the judgement, the guarantee of basic labor rights as stipulated in Article 28 of the Constitution is applicable to public employees as well, but there are sufficient reasonable grounds to impose necessary and inevitable restrictions on the basic labor rights of public employees on the basis of the special status of public employees and the public nature of their services. Therefore, the court ruled that restriction of basic labor rights was constitutional on the assumption that compensatory measures were taken, including; that the NPSA provides well-balanced and detailed provisions relating to status, appointments/dismissals, service discipline, remuneration, and other working conditions; that the NPA has been established as the central personnel administrative agency with quasi-judicial function; and that the NPA makes recommendations to the Diet and the Cabinet on working conditions including remuneration.

Furthermore, a Justice of this case stated a supplementary opinion to this judgement as follows: In cases where the compensatory measures actually become almost of nominal existence, even if public employees resort to acts of dispute in a way and form not exceeding the limits regarded as proper, demanding the normal administration of the system, it should be considered that such acts of dispute are constitutionally guaranteed.