

## The Committee's recommendations

783. *In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:*

- (a) *Expressing its grave concern that, while the Government had accepted a direct contacts mission to the country in line with its previous recommendation, the ILO Direct Contacts Mission that visited Fiji in September 2012 was not allowed to continue its work and was advised to depart expeditiously so that the Government could welcome a visit under the new terms of reference presented by it, the Committee firmly expects that the Government will rapidly re-establish dialogue in this regard so that the Direct Contacts Mission may return to the country without delay within the framework of the mandate bestowed upon it and report back to the Governing Body.*
- (b) *While it understands that Mr Koroi has left the country, the Committee expects that this case will be deliberated by the ERAB without further delay, and that, in the framework of this exercise, the conclusions that the Committee made in this regard when examining this case at its meeting in November 2010 [see 358th Report, paras 550–553] will be duly taken into account, with a view to rehabilitating Mr Koroi and considering his reinstatement should he return to Fiji.*
- (c) *Reiterating its deep concern at the numerous acts of assault, harassment and intimidation of trade union leaders and members for their exercise of the right to freedom of association previously alleged by the complainants, the Committee urges the Government, even if the victims have lodged a complaint in the meantime, to conduct ex officio an independent investigation without delay into the alleged acts of assault, harassment and intimidation against: Mr Felix Anthony, National Secretary of the FTUC and General Secretary of the Fiji Sugar Workers; Mr Mohammed Khalil, President of the Fiji Sugar and General Workers Union – Ba Branch; Mr Attar Singh, General Secretary of the FICTU; Mr Taniela Tabu, General Secretary of the Viti National Union of Taukei Workers; and Mr Anand Singh, lawyer. The Committee requests the Government to transmit detailed information with regard to the outcome of such inquiry and the action taken as a result. With particular regard to the allegation that an act of assault against a trade union leader was perpetrated in retaliation for statements made by the FTUC National Secretary at the ILC, the Committee urges the Government to ensure that no trade unionist suffers retaliation for the exercise of freedom of expression. The Committee generally urges the Government to take full account of the relevant principles enounced in its conclusions in the future.*
- (d) *The Committee urges the Government to take the necessary measures to ensure that all criminal charges of unlawful assembly brought against Mr Daniel Urai, the FTUC President and NUHCTIE General Secretary, and Mr Nitendra Goundar, a NUHCTIE member, on the grounds of failure to observe the terms of the Public Emergency Regulations are immediately dropped, and to keep it informed of any developments in this regard without delay, including the outcome of the case hearing that the Committee understands was deferred.*

- (e) *While welcoming the lifting of the emergency legislation in the form of the PER on 7 January 2012, the Committee, further welcoming the decision to temporarily suspend the application of section 8 of the Public Order Act as amended by the POAD, which placed important restrictions on freedom of assembly, requests the Government to consider abrogation or amendment of the POAD. Stressing that freedom of assembly and freedom of opinion and expression are a sine qua non for the exercise of freedom of association, the Committee once again urges the Government to take full account of the principles enounced in its conclusions in the future and refrain from unduly impeding the lawful exercise of trade union rights in practice. It also requests the Government to reinstate Mr Rajeshwar Singh, FTUC Assistant National Secretary, in his position representing workers' interests on the ATS Board without delay.*
- (f) *Recalling its previous conclusion that the Essential National Industries Decree No. 35 of 2011 and its implementing regulations give rise to serious violations of Conventions Nos 87 and 98 and the principles on freedom of association and collective bargaining, and taking due note of its alleged disastrous effects on the unions concerned, the Committee notes the review by the tripartite ERAB subcommittee of all existing government decrees relating to labour in terms of their conformity with the ILO fundamental Conventions, as well as the subcommittee's agreement, as reported by the complainant, to delete most of the provisions of the Essential National Industries Decree that were considered as offending. The Committee firmly expects that the measures agreed by the tripartite ERAB subcommittee will be actively pursued and given effect without delay, so as to bring the legislation into conformity with freedom of association and collective bargaining principles, and requests the Government to keep it informed of the progress made in this regard without delay.*
- (g) *Noting with interest the adoption of the Public Service (Amendment) Decree No. 36 of 2011 and welcoming the decision recently rendered by the High Court of Fiji and the new internal grievance policy implemented by the PSC, the Committee requests the Government to supply a copy of the High Court decision. It also requests the Government to provide information on the relevant mechanisms currently available to public servants to address individual and collective grievances, and to indicate the results of the review by the tripartite ERAB subcommittee of all existing government decrees relating to the public service in terms of their conformity with the ILO fundamental Conventions.*
- (h) *The Committee requests the Government to take the necessary measures to ensure that arrangements are made between the parties to ensure the full reactivation of the check-off facility in the public sector and the relevant sectors considered as "essential national industries".*
- (i) *The Committee draws the legislative aspects of this case to the attention of the Committee of Experts on the Application of Conventions and Recommendations.*

- (j) *The Committee draws the special attention of the Governing Body to this case because of the extreme seriousness and urgency of the matters dealt with therein.*