

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)
- the Rengo Public Sector Liaison Council (RENGO–PSLC)
- the International Confederation of Free Trade Unions (ICFTU)
- Public Service International (PSI)
- the International Transport Workers’ Federation (ITF)
- the International Federation of Building and Wood Workers (IFBWW)
- Education International (EI)
- the International Federation of Employees in Public Services (INFEDOP) and
- the Union Network International (UNI)

Case No. 2183

- the National Confederation of Trade Unions (ZENZOREN) and
- the Japan Federation of Prefectural and Municipal Workers’ Unions (JICHIROREN)

Allegations: The complainants allege that the upcoming reform of the public service legislation, developed without proper consultation of workers’ organizations, further aggravates the existing public service legislation and maintains the restrictions on the basic trade union rights of public employees, without adequate compensation

Introduction

- 1167.** The Committee examined these cases at its November 2002, June 2003 and March 2006 meetings, where it presented interim reports, approved by the Governing Body at its 285th, 287th and 295th Sessions [see 329th Report, paras 567–652; 331st Report, paras 516–558; and 340th Report, paras 925–999].
- 1168.** The Japanese Trade Union Confederation (JTUC–RENGO) (Case No. 2177) submitted additional information in communications dated 31 March 2006, 5 June 2006, 3 July 2006, 5 September 2006, 16 May 2007, 3 December 2007 and 11 April 2008.
- 1169.** The Government submitted its observations in communications dated 24 May 2006, 28 August 2006, 17 January 2007, 11 May 2007 and 25 April 2008.
- 1170.** 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). It has not ratified the Labour Relations (Public Service) Convention, 1978 (No. 151).

Background

A. Previous examination of the case

1171. At its March 2006 meeting, the Committee made the following recommendations:

- (a) Noting with interest the establishment of dialogue between the parties, the Committee strongly encourages the parties to pursue their ongoing efforts with a view to achieving rapidly a consensus on the reform of the public service and on legislative amendments that are in conformity with the freedom of association principles embodied in Conventions Nos 87 and 98, ratified by Japan. Consultations should notably address the following issues:
 - (i) granting basic labour rights to public servants;
 - (ii) granting the right to organize 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 such rights can be legitimately curtailed 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;
 - (v) the scope of bargaining matters in the public service.
- (b) The Committee requests the Government to provide it with the text of the Administrative Reform Promotion Bill, once it is drafted.
- (c) The Committee requests the Government to provide it with the final judgement in the Ouda-cho case once it is rendered.
- (d) The Committee requests the Government and the complainants to continue to keep it informed on the consequences of the reorganization on the collective bargaining rights of workers transferred to independent administrative institutions (IAIs).
- (e) The Committee requests the Government to keep it informed of developments on all the above issues.
- (f) The Committee reminds the Government that it may avail itself of the technical assistance of the Office, if it so desires.

B. Additional information from the complainants

1172. In a communication dated 31 March 2006, JTUC–RENGO states that at a cabinet meeting on 10 March 2006, the Japanese Government approved the “Administrative Reform Promotion Bill” and immediately introduced it to the Diet. According to JTUC–RENGO, the Bill contains the following provisions: (1) the ratio of overall labour costs for national public servants to GDP in financial year (FY) 2015 and subsequent years shall be reduced to as close as possible to half the ratio in FY2005; (2) over the next five years, the number of national public servants shall be cut by more than 5 per cent; (3) mechanisms shall be developed to allow personnel transfers across government ministries and agencies and training of government employees; (4) overall labour costs for staff serving at independent administrative institutions (IAIs) shall be reduced by more than 5 per cent over the five years starting in FY2006; and (5) local governments shall be asked to reduce their staffing by 4.6 per cent or more (in a communication dated 5 June 2006, JTUC–RENGO attaches sections 42 and 43 of the Administrative Reform Promotion Bill, dealing with these issues. Also attached is section 51 which states that the Government shall adopt necessary measures regarding the wage system for state public employees as well as employees

serving in special duties and general-track workers who are not covered by the provisions of the Law concerning salaries of regular government services).

- 1173.** Furthermore, according to JTUC–RENGO, the Head Office of Administrative Reform Promotion has approved on 31 March 2006 “the framework of personnel transfers and attributions of public servants related to total labour cost reform”, and, with this approval, it was confirmed that “the Employment Adjustment Headquarters for National Government Employees” will be set up at ministerial level.
- 1174.** JTUC–RENGO adds that the second government–labour consultation on reforms of the public service system was held on 20 March 2006 (attended by the General Secretary of JTUC–RENGO, two Chairs of the Alliance of Public Services Workers Unions (APU), the Minister of Regulatory Reform, the Minister of Internal Affairs and Communication and the Minister of Health, Labour and Welfare).
- 1175.** Based on their consultations, the two parties agreed and confirmed as follows, regarding reforms of the public service system and basic labour rights for public servants: (1) the two parties agreed to set up a *kento no ba* (the Board of Examination) to discuss the “scope of public servants to whom basic labour rights will be granted”. At the *kento no ba*, the participants will discuss the issue of basic labour rights, based on a comprehensive examination of the proper scope of public services and what public services and public servants should be; (2) regarding how the *kento no ba* should be managed and when it should be established, the two parties will consult with one another in order to ensure a constructive outcome at the government–labour consultation, which is to be held immediately after the 2006 May holidays.
- 1176.** At this meeting, JTUC–RENGO also asked the Government to have the Prime Minister direct and take a responsibility for the Employment Adjustment Headquarters, which will consider reforms of total expenditures for public servants. According to JTUC–RENGO, the Government responded, that “with regard to the composition of the Employment Adjustment Headquarters for National Government Employees, the Government is thinking of an organization for which the Government as a whole can assume responsibility. In light of your requests as well, the Government will continue considering how to create an effective organization”.
- 1177.** JTUC–RENGO and RENGO–PSLC appreciate the Government’s position as a valuable step forward, as it shows a clear intention to establish a *kento no ba* that will discuss the scope of public servants for whom basic labour rights will be granted, and the two parties have agreed to use the *kento no ba* to discuss such fundamentals as the desirable form for public services and what public services and public servants should be. However, the situation is still far from optimistic, since there remains the possibility that the Government will enter discussions without the assumption that basic labour rights will be granted to public servants, and may intend to discuss these issues without a clear time frame. According to JTUC–RENGO and RENGO–PSLC, the Japanese Government should go ahead and, in line with the intention of the ILO’s recommendations, take definite measures to ensure that public servants have basic labour rights with a greater degree of freedom. JTUC–RENGO indicated that it will intensify their lobbying toward the Government in order to ensure the *kento no ba* will be based on the assumption that basic labour rights will be granted to public servants.
- 1178.** In a communication dated 5 June 2006, JTUC–RENGO states that the Administrative Reform Promotion Bill was passed on 26 May 2006 by the Diet and attached to its communication sections 42, 43 and 51 of the Bill.

- 1179.** In a communication dated 3 July 2006, JTUC–RENGO informs the Committee that the third government–labour consultation on reforms of the public service system was held on 29 May 2006. According to JTUC–RENGO, the two parties agreed and confirmed the establishment of a *kento no ba* which will discuss “the scope of public employees to be granted fundamental labour rights”, as have been agreed at the government–labour consultation held in March; the parties wish the Board of Examination to be established on the basis of a government ordinance based on the Administrative Reform Promotion Law; the Board should discuss and reach conclusions on the proper scope of public work for a simple and efficient Government, the proper classification structures and job descriptions for workers carrying out the public work and, on the basis of these, the proper way of carrying out industrial relations, including the issue of fundamental labour rights of public employees. The Board shall be composed of approximately ten to 15 people with erudition. Finally, the necessary procedures should be carried out and the *kento no ba* promptly established. The first meeting should be held approximately one month after its establishment. In addition, the government–labour consultations should be continued between JTUC–RENGO and the Government on reforms of the public service system.
- 1180.** In a communication dated 5 September 2006, JTUC–RENGO reports that the first meeting of the *kento no ba* was held on 27 July 2006, in line with the agreement of the third government–trade union consultation held on 29 May 2006. It was formally named the Special Examination Committee of the Headquarters for the Promotion of the Administrative Reform.
- 1181.** JTUC–RENGO indicates that the Special Examination Committee was established under the Administrative Reform Promotion Office by a government ordinance based on the Administrative Reform Promotion Law; it will operate for five years and is composed of 17 members who represent trade unions, academia, employers and the mass media; Professor Takeshi Sasaki of Gakushuin University was elected as Chairperson; there are three representatives of trade unions, namely, RENGO General Secretary, Nobuaki Koga, Chairperson of the Alliance of Public Services Workers Unions (APU) Kenji Okabe, and Kenzo Maruyama, head of the APU task force for the public personnel system reform.
- 1182.** At the first meeting, views were exchanged regarding the agenda and the work schedule. The Administrative Reform Promotion Office, which functions as the Secretariat of the Committee, proposed that the Committee should discuss: (i) the proper scope of public work for a simple and efficient Government; (ii) the proper classification structure and job descriptions for workers carrying out public work; and (iii) on the basis of these discussions, the proper way of carrying out industrial relations, including the issue of the fundamental labour rights of public employees. The Committee should discuss as well specific matters: how the scope of public work and civil service workers has been defined in Japan; the current scope of public work in Japan; the proper scope of public work for a simple and efficient Government (points of focus: expanding the areas of private sector activities, attitudes of citizens, changing demand for administrative services, wielding of administrative authority, profitability, efficiency, planning operation and implementation operation, etc.); the proper classification structure for workers carrying out public work under a simple and efficient Government; international comparison of public personnel systems and related laws; proper conditions for civil service workers (including duty of confidentiality, guarantee of status, restrictions on political activities); the proper system for determining working conditions; proper communications between labour and management, including the issue of fundamental labour rights; the proper system for workers’ organizations. Concerning the work schedule, the Committee stated that its meetings should be held once a month in principle, and a report (or an interim report) should be prepared at an appropriate time or at an intermediate stage in the consultation process. Due consideration should be given to the fact that the Administrative Reform Promotion Office will only operate for five years.

- 1183.** When a labour representative insisted that international labour standards should be added to the agenda, the Secretariat stated that, “ILO related matters will not be excluded”. The labour representative also proposed that an interim report be prepared in one year, and a final report prepared in one-and-a-half years, but the Committee could not reach agreement on this matter. The Committee confirmed that the next meeting would be held on 13 September 2006.
- 1184.** In a communication dated 16 May 2007, JTUC–RENGO reports that on 24 April 2007, the ninth meeting of the Special Examination Committee was held, at which the “Arranged Note of the examination of the Special Examination Committee” was adopted. According to the Note, “the issue of the labour–management relationship in the public sector, including the fundamental labour rights of public service employees, should be re-examined with an eye toward reform”. The Note also provided for the establishment of an examination simulation group (consisting of five scholars) to examine the concrete system and issues in relation to fundamental labour rights of public service employees. More specifically, according to the Note transmitted by the complainant:
- Concerning the right to organize, the examination group will study the need of any constraint as well as the potential impact if such right is granted.
 - Concerning the rights to bargain collectively and to conclude collective agreements, the examination group will examine the scope of employees to be granted such rights, the scope of items subject to collective agreements, parties to negotiations, effectiveness of collective agreements, the way to reconciliation of unsuccessful negotiations, and a number of possible mechanisms including that of the National Personnel Authority and local personnel commissions when such rights are granted to public employees.
 - Concerning the right to strike, the examination group will study possible impacts on people’s life and other things when such right is granted to public employees.
- 1185.** JTUC–RENGO further indicates that on 15 May 2007, the Prime Minister also stated before the Diet that “the issue of the labour–management relationship in the public sector, including the fundamental labour rights of public service employees, should be re-examined with an eye toward reform”.
- 1186.** By its communication dated 3 December 2007, JTUC–RENGO transmits a report issued by the Special Examination Committee and submitted to the Minister of State for Regulatory Reform, Administrative Reform, Regional Revitalization and Regional Government on 19 October 2007, and its comments thereon. JTUC–RENGO appreciates that the report clearly notes that, in order to establish autonomous labour and management relations, the range of public employees to whom the right to conclude collective agreements should be granted should be expanded. According to the report, “it is necessary to change the existing system to one under which the labour and the management autonomously determine working conditions” and “for certain non-operational (white-collars) public employees, the right to conclude collective agreements should be granted”. In addition, the report indicated that the recommendation system by an independent body should be abolished.
- 1187.** JTUC–RENGO deplors, however, that the report calls for “a careful decision” from the point of possible cost involved in granting the fundamental rights, as that would give an excuse to the Government for putting off the reform.
- 1188.** Concerning the right to organize of firefighting, the right to strike of public service employees and the labour management consultation system, JTUC–RENGO is unsatisfied

that the report does not go further than enumerating both positive and negative views. While the report indicated certain direction with regard to the issue of granting the right to conclude collective agreements, specific important issues which should be resolved pursuant to the recommendations of the Committee on Freedom of Association remained unresolved. JTUC–RENGO therefore believes that it is important to have further and thorough discussion on the issue of granting the right to strike, which is supposed to facilitate the proper functioning of the rights to organize and to bargain collectively.

- 1189.** JTUC–RENGO indicates that the abovementioned report, along with the conclusions drawn by the Prime Minister’s Advisory Council on Comprehensive Reform of Civil Service System (planned to be published around January 2008), was to be incorporated into the Basic Bill concerning reform of the public service system slated to be presented by the Government to the Diet in 2008.
- 1190.** In a communication dated 11 April 2008, JTUC–RENGO informs the Committee that the Government has endorsed the Bill to reform the national public service personnel system at its Cabinet meeting and on 4 April 2008, submitted it to the Diet. According to the Bill, “the fundamental labour rights of the national public employees should be examined taking into consideration that it is necessary and essential to present to the people overall perspective, including the advantage and cost accompanying the extension of the scope of public employees who are to be granted the right to conclude collective agreements, in order to obtain their understanding on it”. For the complainant, this Bill runs contrary to the report of the Special Examination Committee of 19 October 2007, according to which, the right to conclude collective agreements should be granted to certain non-operational (white-collars) public employees and to the report of the Prime Minister’s Advisory Council on Comprehensive Reform of Civil Service System of 5 February 2008, which clearly stated that the Council “respects the contents of the report of the Special Examination Committee”.
- 1191.** The complainant indicates that as far as fundamental labour rights of public employees are concerned, it will make every possible effort for the Bill to meet the findings of the above reports. At the same time, it will strengthen its campaign for attaining fundamental trade union rights pursuant to the ILO recommendations to realize a democratic public services system. JTUC–RENGO requests that the ILO continue to observe the progress in this case and to urge the Japanese Government to carry out the reform in conformity with the principles of freedom of association.

C. The Government’s replies

- 1192.** In its communication of 24 May 2006, the Government provided the Committee with additional information concerning: (1) the ministerial-level meeting between the Government and the labour representatives; and (2) the description of the civil services reform and the fundamental labour rights of public service employees in the proposed Administrative Reform Promotion Law.
- 1193.** Regarding the ministerial-level meetings, the Government states that meetings were held with JTUC–RENGO on 16 January and 20 March 2006. At the latter meeting, views were exchanged on a wide range of themes, including the basic ideas and issues to be discussed on civil service reform and total personnel costs reform. Agreement was reached on the establishment of a board of examination on “a range of public service employees to whom fundamental labour rights must be given” which will discuss the shape of these fundamental labour rights on the basis of comprehensive examination of the future range of government affairs and public service employees. The nature of the Board of Examination and the date of its establishment will be coordinated and finalized at a government–labour meeting after the May holidays.

- 1194.** Concerning the civil service reform and the fundamental labour rights of public service employees in the proposed Administrative Reform Promotion Law, the Government declares that, in order to establish a basic policy on important issues of administrative reform, the Government made a cabinet decision on 10 March 2006 to propose the draft Administrative Reform Promotion Law which aims at making the Government simpler and more effective, and submitted it to the Diet. The proposed law under examination indicates that civil service reform and the fundamental labour rights of public service employees shall be examined from a wide spectrum of views fully taking into account opinions of the whole nation. The Government requests the ILO to understand the sincerity of its efforts in this matter.
- 1195.** In a communication dated 25 August 2006, the Government informs the Committee of the meeting between the Government and labour representatives held on 29 May 2006 and states that, at this meeting, agreement was made on the following points: (1) the Board of Examination would be established by a government ordinance based on the Administrative Reform Promotion Law; and (2) the Board of Examination would give examinations and conclusions on the scope of government affairs, the classification of personnel who carry out government affairs and what those government affairs and personnel should be. Based on this examination, further consideration and conclusions would be made on the labour-employer relationship in the public sector, including the fundamental labour rights of public service employees.
- 1196.** The Government further informs the Committee of the first meeting of the Special Examination Committee of the Headquarters for the Promotion of Administrative Reform which was established by ordinance of 23 June 2006 based on the Administrative Reform Promotion Law. This Committee consists of 17 members and held its first meeting on 27 July 2006. At this first meeting, Dr Takeshi Sasaki, Professor of the Faculty of Law at Gakushuin University, was elected as Chairperson and it was confirmed that meetings would be held almost once a month and that a conclusion would be reached at an appropriate time.
- 1197.** In its 17 January 2007 communication, the Government provides additional information on the situation of civil service reform. Following the first meeting in July 2006, the Special Examination Committee of the Headquarters for the Promotion of Administrative Reform met again in September, October, November and December. At these meetings, the following matters were examined: the scope of government affairs in a simple and efficient Government; the classification of personnel who carry out government affairs; what those government affairs and personnel should be; and, based on these examinations, the prospective labour-employer relationship in the public sector, including the fundamental labour rights of public service employees.
- 1198.** In its December meeting, the Committee decided to set up subcommittees to conduct intensive hearings with about 30 groups, such as those of employees' organizations and personnel authorities in January and in the beginning of February 2007. It also examined points of discussion which included the issue of the prospective labour-employer relationship including fundamental labour rights and will be the subject of deeper examination in future meetings in February or later.
- 1199.** Considering the increasing public interest in public service employees these days, the Government regards the civil service reform as an important issue which should be worked on promptly, and it recognizes that it is necessary to speed up coordination regarding the reform with parties concerned, including employees' organizations. The Government is making positive efforts to discuss with the parties concerned, concentrating around the issues examined in the Committee.

- 1200.** Concerning the case of Oouda-Cho, the Government indicates that, in its ruling of 27 October 2006, the Supreme Court dismissed the final appeal of the Uda City Justice Committee, since no grounds for the final appeal could be found under the provisions of paragraphs 1 and 2 of article 312 of the Code of Civil Procedure. In addition, the Supreme Court rejected the petition for the acceptance of a final appeal submitted by the said Justice Committee, because the said petition was not recognized as acceptable under the provisions of paragraph 1 of article 318 of the Code of Civil Procedure. As a result, the judgement of the Osaka High Court was made final and binding. The Government is attaching the text of the judgement.
- 1201.** In its 11 May 2007 communication, the Government indicates that at the ninth meeting of the Special Examination Committee held on 24 April 2007, the “Arranged Note of the examination of the Special Examination Committee”, drafted by its chairperson, was accepted. According to the Note, “concerning the civil service system, there are many points which need to be reformed from a public perspective. The issue of the labour–employer relationship in the public sector, including the fundamental labour rights of public service employees, should be re-examined with an eye toward reform”. The Note also provided for the establishment of an examination simulation group to examine the concrete system and issues related to fundamental labour rights of public service employees.
- 1202.** The Government regards the civil service reform as an important issue which should be worked on promptly. Therefore, on 25 April 2007, the Government submitted to the Diet a Bill which aims at regulating reemployment after retirement and introducing an ability and performance-based personnel treatment system for national public service employees. It also issued a Cabinet decision “Concerning Civil Service Reform”, which commits the Government to continue examining the fundamental labour rights of public service employees, taking into consideration the discussion in the Special Examination Committee.
- 1203.** In a communication dated 25 April 2008, the Government informs the Committee that the Special Examination Committee completed its report on the basic labour rights of public service employees on 19 October 2007. According to the report:
- (1) The right to conclude collective agreements should be given to a certain range of non-industrial public service employees and the system in which the third party institutions recommend labour conditions of public service employees should be abolished simultaneously. It will enable the employer to timely and flexibly determine labour conditions in a proactive manner, taking employees’ opinions into account.
 - (2) If the costs accompanied by the enlargement of the sphere of basic labour rights of public service employees, such as increasing in costs by labour bargaining, are much larger than the benefits brought by the enlargement, this will not be acceptable to the people. Therefore, the decision on this enlargement must be made carefully in taking these costs into account.
 - (3) Prior to the engagement to the reform, it is essential to show the whole picture of public service employees’ labour rights reform to the people in order to gain understanding of them.

In addition, this report gives both arguments of granting public service employees the right to strike and about granting fire defence personnel and prison staff the right to organization.

- 1204.** In July 2007, the Government established an Advisory Group for Comprehensive Civil Service Reform, which consisted of intellectuals including a representative from trade unions. The Advisory Group discussed comprehensive civil service reform aimed at raising the capabilities of public service employees, so as to incite them to share the viewpoint of people and to fulfil their duty with pride and responsibility. The Advisory Group submitted its final report to the Prime Minister on 5 February 2008, in which it considered that the report of the Special Examination Committee should be respected.
- 1205.** On 4 April 2008, on the basis of the report of the Advisory Group, the Government drafted a Bill which defined fundamental principles of civil service reform and basic policy. It then submitted the Bill Stipulating Civil Service Reform to the Diet. This Bill defines a wide range of issues related to civil service reform, such as fundamental principles of civil service reform, the role of public service employees under the Japanese parliamentary system, diversity among the civil service and establishment of the Cabinet Personnel Office. According to the Bill, as far as the basic labour rights of national public service employees are concerned, in order to gain understanding of the people, the Government should conduct examination, taking into account the fact that it is essential to first show the people the whole picture of the reform, including its costs and benefits, to the extent that the range of public service employees who have the rights to conclude collective agreements would be expanded (article 12). In this respect, the supplementary provision, article 2, provides that the Government shall examine the labour rights of local public service employees, along and in coherence with the examination on the labour rights of national public service employees. The Government hopes that this Bill will soon be deliberated and adopted for steady promotion of civil service reform.
- 1206.** The Government states that in the process of taking all of the above measures, it exchanged views and coordinated with the parties concerned, including employees' organizations, and will continue to promote reform, exchange views and coordinate with them. The Government's approach is based on the idea that frank exchanges of views and coordination are necessary. In this respect, the Government refers to the composition of the Special Examination Committee and the Advisory Group, which include members from trade unions and employees' organizations and to the numerous meetings which took place at the ministerial level with representatives from trade unions and employees' organizations (including one meeting with the Prime Minister, two meetings with the Minister of Civil Service Reform and two meetings with the Minister of Internal Affairs and Communications). The Government further states that it will do its utmost to make the discussion meaningful and achieve fruitful civil service reform. The Government requests the ILO to understand the sincerity of its efforts in this matter. It will continue to provide the ILO with timely and relevant information in this regard.
- 1207.** With regard to the Committee's request to keep it informed of the consequences of the reorganization on the collective bargaining rights of workers transferred to independent administrative institutions (IAIs), the Government refers to its previous communication and indicates that the Japan Post, a public corporation, the employees of which were national public service employees, was privatized in October 2007. By the privatization, 223,000 employees were fully granted the fundamental labour rights, including the right to strike. The Government adds that by transformation to IAIs, as of 1 January 2008, some 444,000 employees (approximately 55 per cent of national public service employees) have been granted or saw fundamental labour rights expanded).

D. The Committee's conclusions

- 1208.** *The Committee recalls that these cases, initially filed in March 2002, concern the current reform of the public service in Japan.*

- 1209.** *The Committee takes note from the complainant and Government's communications that, on 10 March 2006, the draft Administrative Reform Promotion Law was approved by the Cabinet and submitted to the Diet, where it was passed on 26 May 2006.*
- 1210.** *The Committee further notes from the communications submitted that: (1) a second government-labour consultation on reforms of public service was held on 20 March 2006, where it was agreed to set up consultations on "a range of public service employees to whom fundamental labour rights must be given"; (2) a third government-labour consultation on reforms of the public service system was held on 29 May 2006, where the workings of the Board of Examination were decided; (3) the first meeting of the Special Examination Committee of the Headquarters for the Promotion of the Administrative Reform was held on 27 July. This Committee will operate for five years and is composed of 17 members who represent trade unions, academia, employers and the mass media; and (4) on 24 April 2007, the ninth meeting of the Special Examination Committee was held, at which the "Arranged Note of the examination of the Special Examination Committee" was adopted. According to the Note, "the issue of the labour-management relationship in the public sector, including the fundamental labour rights of public service employees, should be re-examined with an eye toward reform". The Note also provided for the establishment of an examination simulation group to examine the concrete system and issues related to fundamental labour rights given to public service employees.*
- 1211.** *Furthermore, according to the Government, at the meetings of the Special Examination Committee in September, October, November and December 2006, the following matters were examined: the scope of government affairs in a simple and efficient Government; the classification of personnel who carry out government affairs; what those government affairs and personnel should be; and, based on these examinations, the prospective labour-employer relationship in the public sector, including the fundamental labour rights of public service employees. The Government indicated that, at its December meeting, the Special Examination Committee decided to set up subcommittees to conduct intensive hearings with about 30 groups, such as those of employees' organizations and personnel authorities, in January and in the beginning of February 2007. It also examined points of discussion which included the issue of the prospective labour-employer relationship including the fundamental labour rights*
- 1212.** *The Committee notes the report issued by the Special Examination Committee transmitted by JTUC-RENGO. In this respect, the Committee notes the JTUC-RENGO's appreciation of the report, to the extent that it provides that in order to establish autonomous labour and management relations, the range of public employees to whom the right to conclude collective agreements should be granted should be expanded, that "it is necessary to change the existing system to one under which the labour and the management autonomously determine working conditions", that "for certain non-operational (white-collars) public employees, the right to conclude collective agreements should be granted" and that the recommendation system by an independent body should be abolished.*
- 1213.** *The Committee notes, however, that JTUC-RENGO deplors the fact that the report calls for "a careful decision" from the point of possible cost involved in granting the fundamental rights, as that would give an excuse to the Government for putting off the reform. JTUC-RENGO is further unsatisfied with the report to the extent that with regard to the right to organize of firefighting personnel, the right to strike of public service employees and the labour management consultation system, it does not go further than enumerating both positive and negative views. While the report indicates certain direction with regard to the issue of granting the right to conclude collective agreements, specific important issues which should be resolved pursuant to the recommendations of the Committee on Freedom of Association remain unresolved.*

- 1214.** *The Committee notes from the latest communications of the complainant and the Government that a Bill to reform the national public service personnel system was endorsed by the Government at its Cabinet meeting and on 4 April 2008, submitted it to the Diet. The Committee notes that while the Government considers that the Bill takes on the reports of the Special Examination Committee and of the Advisory Group, the complainant considers that the Bill is a step backward.*
- 1215.** *The Committee notes that JTUC–RENGO considers that the Bill should meet at least the findings of both reports and believes that it is important to have further and thorough discussion on the issue of granting the right to strike, which is supposed to facilitate the proper functioning of the rights to organize and to bargain collectively. The Committee notes that, according to the Government, its approach has been based on the idea that frank exchanges of views and coordination are necessary and that it will do its utmost to make the discussion meaningful and achieve fruitful civil service reform.*
- 1216.** *The Committee notes that the Government acknowledges the increasing public interest in public service employees these days, regards the civil service reform as an important issue which should be worked on promptly, and recognizes that it is necessary to speed up coordination regarding the reform with parties concerned, including employees' organizations. The Committee also takes note of the Government's statement that it has been making positive efforts to discuss with the parties concerned, concentrating around the issues examined in the Special Examination Committee.*
- 1217.** *The Committee notes the progress achieved since the last examination of this case and welcomes the institutionalized discussions that have taken place between the parties. It expects that the Bill finally adopted by the Diet will be followed by adequate steps for the promotion of a mechanism for full social dialogue aimed at effectively and without delay addressing the measures necessary for the implementation of 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) granting the right to organize 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 transmit any relevant Bills referred to the Diet.*
- 1218.** *Regarding the case of Oouda-Cho, the Committee recalls that it concerned the scope of managerial personnel which was said by the complainant to be too wide and often decided unilaterally, decreasing the potential membership of organizations. More particularly, in the case of the locality of Oouda-cho (Nara Prefecture), such an unduly enlarged interpretation was said to have virtually crippled the union management, which was almost driven to dissolution. The Committee notes the attached judgement of the Supreme Court which dismissed the appeal of the Uda City Justice Committee against the ruling of the Osaka High Court which had revoked the cancellation of the registration of the employees' organization concerned thus rendering the revocation final and binding. The Committee takes note of the ruling of the Supreme Court.*
- 1219.** *The Committee takes note of the information submitted by the Government on the consequences of the reorganization of the collective bargaining rights of workers transferred to IAIs.*

1220. Finally, the Committee reminds the Government that it may avail itself of the technical assistance of the Office, if it so desires.

The Committee's recommendations

1221. In the light of its foregoing interim conclusions, the Committee invites the Governing Body to approve the following recommendations:

- (a) While noting the progress achieved since the last examination of this case and welcoming the institutionalized discussions that have taken place between the parties, the Committee expects that the Bill finally adopted by the Diet will be followed by adequate steps for the promotion of a mechanism for full social dialogue aimed at effectively and without delay addressing the measures necessary for the implementation of 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) granting the right to organize 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;
 - (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 transmit the conclusions of the Prime Minister's Advisory Council on Comprehensive Reform of the Civil Service System and any relevant Bills referred to the Diet.

- (b) The Committee reminds the Government that it may avail itself of the technical assistance of the Office, if it so desires.