

Committee on the Application of Standards

Date: 17 May 2024

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 20 May 2024.

▶ Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Japan (ratification: 1965)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Government has provided the following written information.

(i) Right to organize of firefighting personnel

From 18 January 2019 to 26 June 2023, the Ministry of Internal Affairs and Communications (MIC) held regular consultations with the employees' side, in response to the summary of the Chairperson.

The 11th consultation on 26 June 2023, entailed substantive consultation on the ambulance system during the COVID-19 pandemic. At this consultation, the MIC explained that the number of firefighters, including ambulance team members and ambulance vehicles, had been consistently increased over the past years, even during the COVID-19 pandemic and the Government has taken financial measures to strengthen both, and that the Fire and Disaster Management Agency (FDMA) introduced effective methods at the fire department headquarters in order to reduce the burden on ambulance team members, etc. The FDMA regularly takes measures to digitize, expedite, and facilitate ambulance services by utilizing the Individual Number Card and to promote the timely and appropriate use of ambulances etc. The employees' side stated that they would continue exchanges on the issues of firefighters in coordination with the MIC.

On 1 January 2024, a large-scale earthquake (the 2024 Noto Peninsula earthquake) occurred in Ishikawa Prefecture, and a total of 4,919 units of 211 headquarters from 21 prefectures converged on the disaster area on the direction of the Commissioner of the FDMA, rescued lives and transported the victims in cooperation with the police and Self-Defense Force. In Japan, a disaster-prone country where large-scale earthquakes and other disasters occur frequently, a unified command and integrated actions with related organizations are required to ensure prompt and effective disaster response.

With regard to the Fire and Defense Personnel Committee (FDPC) system, the MIC has conducted a survey reflecting the employees' side's opinion to understand the operational status of the FDPC and found improvements on many points. For further improvement, the MIC notified fire department headquarters across the country of things to note about the operation of the FDPC.

(ii) Right to organize of prison staff

(1) As stated in the previous reports, a prison officer has the duty to incarcerate one sentenced to imprisonment, the accused, the suspect and one sentenced to death in penal institutions. Further, a prison officer, being granted the authority to investigate crimes in penal institutions and to arrest inmates, controls judicial police work in penal institutions and, in addition, is permitted by law to carry and use a weapon, just like police officials. In view of the purport of Article 9 of the Convention, therefore, the prison officer is considered to be included in the "police" as mentioned in the Article. Regarding the Government's view above, the Government acknowledges that this is recognized by the ILO's Committee on Freedom of Association in its 12th report and 54th report as well.

In cases where any emergency occurs in a penal institution, it is required to promptly and properly bring the situation under control by force, if necessary, in accordance with the direction and supervision of the officer who has the highest rank of all personnel at the site. The personnel of penal institutions in Japan work together to respond to such an emergency situation. It is not appropriate to give the personnel of penal institutions the right to organize, because it poses a problem for the appropriate performance of the above-mentioned duties and proper maintenance of discipline and order in penal institutions.

(2) Based on the views stated in (1), the personnel of penal institutions are not entitled to the right to organize. However, based on the observations in the report of the Committee of Experts in 2018, the Government created new, and expanded the existing, opportunities for the personnel of penal institutions to express their own opinions on their working environment, etc. Specifically, as stated in the report the Government submitted in 2023, the Government has been continually organizing meetings for exchanging views between executives of each Regional Correction Headquarters and general staff members and holding annual conferences of Penal Institutions for Female Prisoners, in order to solve its unique challenges.

Furthermore, since June 2003, "consultation services for staff" which accept anonymous consultations/complaints, have been introduced into Correction Bureau, Regional Correction Headquarters and Training Institution for Correctional Personnel. In May 2023, in addition to further improving the working environment and promoting work-life balance among staff, the Government widely informed staff about not only consultation services within the correctional organizations but also the various services provided by external organizations such as the National Personnel Authority (NPA), by setting a "Strengthening Consultation Period", aimed at intensively accepting suggestions and consultations from staff. Since 1 April 2024, the Government has been assigning mental health counsellors to all penal institutions in order to enhance mental health measures for correctional staff who work in its unique environments involving stresses and to ensure their psychological safety in the workplace. As stated in (1), the personnel of penal institutions are not entitled to the right to organize. However, the Government is seeking to improve their workplace environment through various measures including those that are not stated above.

(iii) Public service employees

The basic labour rights of public service employees of Japan are, to some extent, restricted, due to their distinctive status as “servants of all citizens” and the public nature of the functions they are required perform, in order to guarantee all citizen’s common interests. Instead, they benefit from the NPA Recommendation system and other compensatory measures. The Government, taking a basic position of respecting the NPA Recommendation system, drafts bills, which are deliberated in the Diet, and then revises remuneration, etc. These compensatory measures have ensured that the working conditions of national public service employees are appropriate. The Supreme Court of Japan judged that guarantees made by the NPA Recommendation system and other related measures have been established as a system and administered, as compensation for certain restrictions on their basic labour rights (judgement made by the Grand Bench of the Supreme Court on 25 April 1973).

In order to perform such compensatory functions properly, in case of making a recommendation by which remuneration and other working conditions of national public service employees will be brought into accord with the general conditions of society, the NPA examines the general conditions of society and carries out surveys on working conditions, such as remuneration in the private sector. The NPA has established a Deputy Director-General for Employee Organizations’ Affairs and a Counsellor to hear opinions from employee organizations. In making recommendations about working conditions of officials to the Diet and the Cabinet, and enacting, revising, or abolishing the Rules, the NPA hears employee organizations’ opinions or requests through meetings and reflects these in its recommendations, etc. as far as possible.

The NPA listened to and exchanged opinions with employee organizations at 186 official meetings in 2023 (100 meetings were held before making recommendations and reports from January to August).

The Government, taking a basic stance of respecting the NPA Recommendation system, reviews decisions regarding national public service employees’ remuneration from the viewpoint of national administration in general and submits to the Diet the Amendment Bill of the Act on Remuneration of Officials in the Regular Service concerning remuneration revision; thus, laws are revised swiftly.

As is also taken into consideration in the conclusion of the Conference Committee in 2018, there are various issues concerning measures for the autonomous labour–employer relations system, including that “negotiation costs will increase, which may lead to some confusion” and that “prolonged labour–employer negotiations may affect execution of operations”, etc.

In addition, as reported in the previous reports of the Government, the Amendment Act of the National Public Service Act, etc. enacted in April 2014 was formulated on the premise of the current situation, in which a part of the basic labour rights of national public service employees is restricted, and does not provide measures for an autonomous labour–employer relations system.

The reason for this is that, in light of the fact that the four civil service reform related bills, which provided for the establishment of an autonomous labour–employer relations system, received various opinions from the public and were subsequently abolished, and in light of the changes in the situation and environment since then, there are a wide range of issues that have yet to be understood by the public. This situation remains unchanged today. For these reasons, the Government believes that the measures for an autonomous labour–employer

relations system are an issue that should be carefully examined while continuing to exchange opinions with employee organizations, etc. in Japan.

The Government annually has exchanged views with individual employee organizations at various levels, from Ministers to officials in charge, on various cases including the autonomous labour–employer relations system according to the situations of the time each year, including in spring and after the NPA Recommendations are issued. The topics are, for example, regarding remuneration, part-time employees, work–life balance, matters related to the autonomous labour–employer relations system, etc. in the spring period, as well as regarding handling of the NPA Recommendation after its issue. In addition, based on requests from employee organizations, opinions are exchanged on individual measures, including the improved treatment of part-time officials such as “eliminating gaps regarding working conditions including remuneration, allowances, and leave”, “prohibiting so-called ‘termination of employment’”, and “introducing a permanent employment conversion system same as private sectors” as well as improved treatment of female national public employees such as “expanding recruitment and promotions” and “preventing various harassments”.

Also, as for the basic labour rights of local public service employees, based on the examination of national civil service reform that is stated in the Government’s report in response to the Conference Committee’s conclusions on the application of the Convention, the Government will carry out careful examinations regarding measures for local public service, listening to opinions of related organizations.