Chapter IV Labor-Management Relations

1 Labor-management Relations in Japan

In-House Labor-management Relations Play a Key Role

In Japan, there persisted an employment practice where dismissal of regular employees was kept to a minimum, and these employees were nurtured and utilized in the internal labor market over a long term. The various systems of employment relations have developed to adjust to this internal labor market. This phenomenon had been reflected in the characteristic of individual labor-management relations, in particular at large corporations, with (1) periodic recruitment of new graduates with the assumption of job security until retirement, (2) education and training through flexible reassignment of regular employees and on-the-job-training (OJT), and (3) personnel management by seniority for remuneration and promotion in accordance with accumulation of work performance.

The labor-management relations between employee groups and companies have also developed into enterprise labor-management relations, whereby in tandem with the long-term employment practice, enterprise unions of mainly large corporations allow their regular employees to be an union member. Typically, one enterprise union is organized per company and the union officials are also employees. Since the managers and executives that represent the employers had once been ordinary employers as well before being promoted to their position, they share common interests with the union members.

In corporations where labor unions exist, collective bargaining takes place between the labor union and corporation, and working conditions such as annual wage increases, lump-sum benefits, working hours, welfare issues and others are determined. At corporations, in addition to collective bargaining, labor-management consultation systems exist in diverse formats at voluntary bases. This system is widely seen also at corporations which are not unionized and the system is used to discuss such issues as management policy and the formulation of production plans, among others. This labor-management consultation system is said to contribute to the establishment of stable labor-management relations.

Labor-management Relations at Industry and National Levels

Nevertheless, there is a limit to the bargaining powers of Japanese enterprise unions, in contrast to the labor unions which are organized cross-corporate organizations as seen in Europe. It could be said that the Shunto (spring labor offensive) developed as a means of supplementing the limitations of enterprise unions. Under Shunto system industrial organization unions of the labor unions organize a unified, cross-corporate struggle, and national centers perform such tasks as strategic coordination between industrial trade unions and arousal of public sentiments. The Shunto system has resulted in the creation of a social ripple-effect system whereby a pattern-setting labor-management grouping determines the wage increase rate, which is in turn used as a reference by other labor-management groups in their negotiations.

Rengo (Japanese Trade Union Confederation), which is the national center, and management organizations such as Nippon Keidanren (Japan Business Federation) have established a venue for regular discussions, and for issues on which they share the same opinion, a joint policy proposal is duly

submitted to the central government.

A second point of importance is the role in governmental councils on the formation of labor and social policy. Representatives of labor organizations and management organizations and management organizations participate in these councils and endeavor to ensure that in the process of consensus building on policy, the position of workers and employers is duly reflected.

Shortcoming of the Conventional Modality

The long-term employment practice is faltering due to changes in the labor market structure such as decreasing birth rate and rapidly aging society as well as long-term economic stagnation since the 1990s, and revision of the seniority-based wage system is being advanced.

A rapid increase in atypical workers such as part-time workers has imposed tremendous influence on the modality of collective labor-management relations.

The labor union membership rate fell below 20% in 2003, declining to 18.1% in 2007, but it recovered slightly in 2010, reaching 18.5%. If we look at the situation in the private sector alone, the figure is 17.0%. Labor unions focused on regular employees are definitely lagging behind the unionization of atypical workers, but the unionization rate among part-time workers is rising gradually, from 2.7% in 2001 to 5.6% in 2010 (see IV-1). In addition, looking at the situation by scale of corporation reveals stark differences in organization of labor unions. In other words, in 2010, the unionization rate among corporations with more than 1,000 employees was 46.6%, but among corporations with between 100 and 999 employees this figure was 14.2%, and for corporations with less than 99 employees, the figure was 1.1%. This demonstrates that labor unions in small, medium and micro enterprises have diminished even further in presence.

Shortcomings can also be seen in the Shunto method. With international intensifying competition, management have taken such measures as flexible personnel management reflecting corporate results as a modality for wage increases, rationalization of wage standards that enable the maintenance of international competitiveness, establishment of a wage system that recognizes abilities, results and contributions, and as well as the multi-streaming of wage management. It is becoming clear that cross-industry wage increases are increasingly difficult in such an environment.

In contrast to the period when wage hikes could be guaranteed thanks to high-speed growth, international corporate competition has intensified, and in the increasingly severe corporate management environment we have entered a period in which labor conditions could be lowered. Japan's labor unions is tested whether they can regain their power and influence and demonstrate their presence in the labor market.

IV-1 Changes in the Number of Union Members and the Estimated Unionization Rate for Part-time Workers (Unit Labor Union)

Year	Number of labor union members among part-time workers			Ratio to all union members	Number of short-time workers	Estimated unionization rate
	(in 1,0000)	Year-on-year difference (in 1,0000)	Year-on-year difference ratio (%)	(%)	(in 10,000)	(%)
2001	28.0	2.0	7.8	2.5	1,042	2.7
2002	29.2	1.3	4.5	2.7	1,097	2.7
2003	33.1	3.8	13.1	3.2	1,098	3.0
2004	36.3	3.1	9.5	3.6	1,107	3.3
2005	38.9	2.6	7.3	3.9	1,172	3.3
2006	51.5	12.6	32.4	5.2	1,187	4.3
2007	58.8	7.3	14.2	5.9	1,218	4.8
2008	61.6	2.8	4.7	6.2	1,232	5.0
2009	70.0	8.4	13.7	7.0	1,317	5.3
2010	72.6	2.6	3.7	7.3	1,291	5.6

Source: *Survey of Labour Unions*, 2010, Ministry of Health, Labour and Welfare

Notes: 1) "Part-time workers" are those who work fewer hours than regular workers at the same business operation, or work regular working hours with a shorter workweek, and referred to as "part-time workers" at the workplace.

2) The number of short-time workers is the number of those who are classified as "employed" in the *Labour Force Survey* with less than 35 working hours per week.

3) Estimated unionization rate is calculated by the following formula: Number of union members among part-time workers ÷ Number of short-time workers.

2 State of Unionization and Labor Union Structure

Unionization Rate of 18.5%

According to the "Survey of Labor Unions" issued by the Ministry of Health, Labour and Welfare, as of June 30, 2010, there were 55,910 unit labor unions in Japan. The estimated unionization rate is 18.5%, with about 10.054 million out of a total of around 54.47 million employed workers belonging to unions.

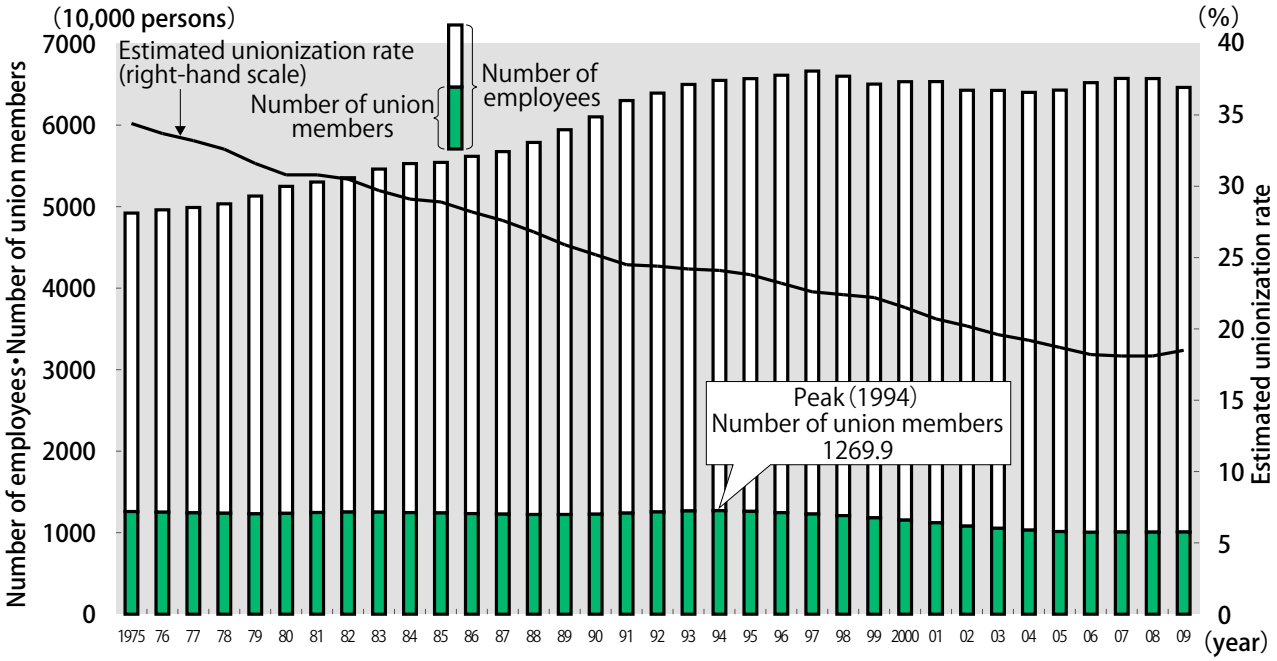
The organizational structure of Japan's labor unions is overwhelmingly dominated by enterprise unions. Craft unions and industry trade unions also exist —though in small numbers— but in Japan where long-term employment is common, over 90 percent of unions are enterprise unions.

The Unionization Rate Has Been Declining Since its Peak in 1949, But Has Held Steady or Risen in Recent Years

Since its peak in 1949, the estimated unionization rate has continuously declined because the growth in the number of union members has not kept up with the growth in numbers of employees. In addition, the number of union members in 1994 peaked at around 12.62 million, before going into steady decline (see IV-2).

Broken down by industry, unionization rates are high in compound services (52.2%), electricity, gas, heat, and water supply (43.5%), government service (43.4%), and finance and insurance (42.0%). In contrast, rates are low in industries such as agriculture, forestry, and fisheries (2.7%), real estate and rental and leasing of goods (2.7%), accommodations and eating and drinking places (4.0%), services (miscellaneous) (4.6%), and living-related/personal services and amusement (6.4%). The industry with the largest number of union members is the manufacturing industry (27.9%) (see IV-4).

IV-2 Changes in the Number of Employees and Union Members, and the Estimated Unionization Rate (Unit Labor Union)



IV-3 Unionization Rate by Size of Enterprise

(10.000 persons, %)

Size of enterprise	The number of union members	The number of employees	Estimated unionization rate
Total	836.7	4,917	16.5
More than 1,000 workers	516.4	1,108	46.6
300-999 workers	123.5	1,346	14.2
100-299 workers	67.6		
30-99 workers	22.6	2,425	1.1
Fewer than 29 workers	3.5		
Others	103.1	-	-

Source: *Survey of Labour Unions*, 2010, Ministry of Health, Labour and Welfare
Notes: 1) The total number of unit unions
2) "Others" includes members of unions that embrace more than one industry (excluding group enterprises) and unions whose size is not known.
3) "Number of employees" represents workers employed by private enterprises, excluding agriculture and forestry.

IV-4 Unionization by Industry

Industry	Number of union members (1,000 persons)	Percentage (%)	Number of employees (10,000 persons)	Estimated unionization rate (2010) (%)
All industries	9,988 [2,962]	100.0	5,447	—
Agriculture, forestry, and fisheries	14 [1]	0.1	57	2.5
Mining	5 [1]	0.1	3	18.1
Construction	893 [60]	8.9	394	22.7
Manufacturing	2,739 [437]	27.4	980	27.9
Electricity, gas, heat supply and water	190 [25]	1.9	41	46.3
Information and communications	397 [72]	4.0	190	20.9
Transport	890 [80]	8.9	331	26.9
Wholesale and retail trade	1,176 [572]	11.8	938	12.5
Finance and insurance	742 [368]	7.4	171	43.4
Real estate	28 [7]	0.3	94	3.0
Scientific research, professional and technical services	147 [27]	1.5	151	9.7
Eating and drinking place, accomodations	124 [61]	1.2	325	3.8
Living-related and personal services and amusement services	116 [60]	1.2	180	6.5
Education and learning support	571 [307]	5.7	257	22.2
Medical health care and welfare	468 [363]	4.7	608	7.7
Combined services	266 [67]	2.7	47	56.5
Services	185 [37]	1.8	413	4.5
Public service	974 [397]	9.7	223	43.7
Other industries	64 [21]	0.6	69	—

Source: *Survey of Labour Unions*, 2010, Ministry of Health, Labour and Welfare
Notes: 1) The total number of unit labor unions
2) The "other industries" category covers members of unions that embrace more than one industry (excluding group enterprises) or whose industrial classification is unclear
3) Figures in brackets represent female union members

Primary Reasons for the Falling Unionization Rate are the Growth of the Service Sector and Increases in Part-time Workers

There are two factors behind the falling unionization rate. Firstly, the burgeoning of development in the service economy has increased the proportion of the commerce and service among overall industries, in which the unionization rate have historically been low. Secondly, the diversification of employment has resulted in increasing numbers of part-time workers who are difficult to organize. Another factor is attrition of numbers due to retirement of people who used to be union members and who are not being replaced by new members.

Labor Union Structure

Japanese labor unions basically have a "triplicate structure". That is, (1) enterprise labor unions organized at each business, (2) industrial trade unions organized as loose federations of enterprise union members gathered by industry, and (3) national centers (a typical example being the Japanese Trade Union Confederation) made up of the industry trade unions gathered at the national level.

Enterprise Labor Unions: Asserting Labor's Basic Rights

Enterprise labor unions are Japan's dominant form of labor organization because each enterprise union exercises labor's three primary rights: the rights to organize, bargain collectively, and strike. Each enterprise union has most of the staff, funding, and other materials necessary to exercise labor's three primary rights. Labor unions play the role of maintaining and improving workers' quality of life and working conditions. In order to do so, they engage in three primary activities: activities with management, activities within the unions, and activities outside the organization. First of all, as individual unions, enterprise unions maintain and improve working conditions as in figure IV-5 and participate in management through collective bargaining and consultation with the management. Next, as for activities within the unions, enterprise unions not only deal with organizational operations but also provide their members with services through various kinds of mutual aid activities.

Finally, when it comes to activities outside the organization, enterprise unions individually seek to provide benefits to their members by using their influence for various policies on the regional, industrial, and national levels concerning employment and working conditions as well as quality of life of their members. In addition, recently, more and more labor unions are getting involved with community and volunteer activities in order to improve their public relations.

Incidentally, the enterprise unions are only intended for regular staff employed at the concerned companies, and non-regular staffs are generally not included. The enterprise union is a mixed union organized as a single trade union for all regular staffs, without distinction between white-collar and blue-collar.

Industrial Trade Unions: The Mechanism and Roles

Enterprise unions are limited by their own resources to engage in the above-mentioned three activities. In order to expand their effectiveness, they have established industrial trade unions. Industrial trade unions support their member unions' actions against business owners by consolidating requests concerning chief working conditions such as wages and working hours on the industrial level, collecting and providing information and basic materials, and coordinating negotiation strategies. In terms of activities within the organization, industrial trade unions provide their members with a variety of services through mutual aid activities, including life insurance, pension, medical insurance and so on. In addition, industrial trade unions participate in the formation and decision-making processes of national industrial policies, consult with economic organizations and develop international cooperation among labor unions.

National Centers: The Mechanism and Roles

National centers (mainly Rengo-the Japanese Trade Union Confederation) provide members with

support for actions against business owners by, for example, deciding comprehensive standards for requests regarding working condition issues such as wages and working hours. However, the most important role of the national centers is their participation in national politics. Rengo, the largest of the national centers, maintains and improves workers' quality of life by sending its members to various advisory bodies in the government, participating in the decision making processes of government policy making, and concluding and maintaining cooperative relations with political parties.

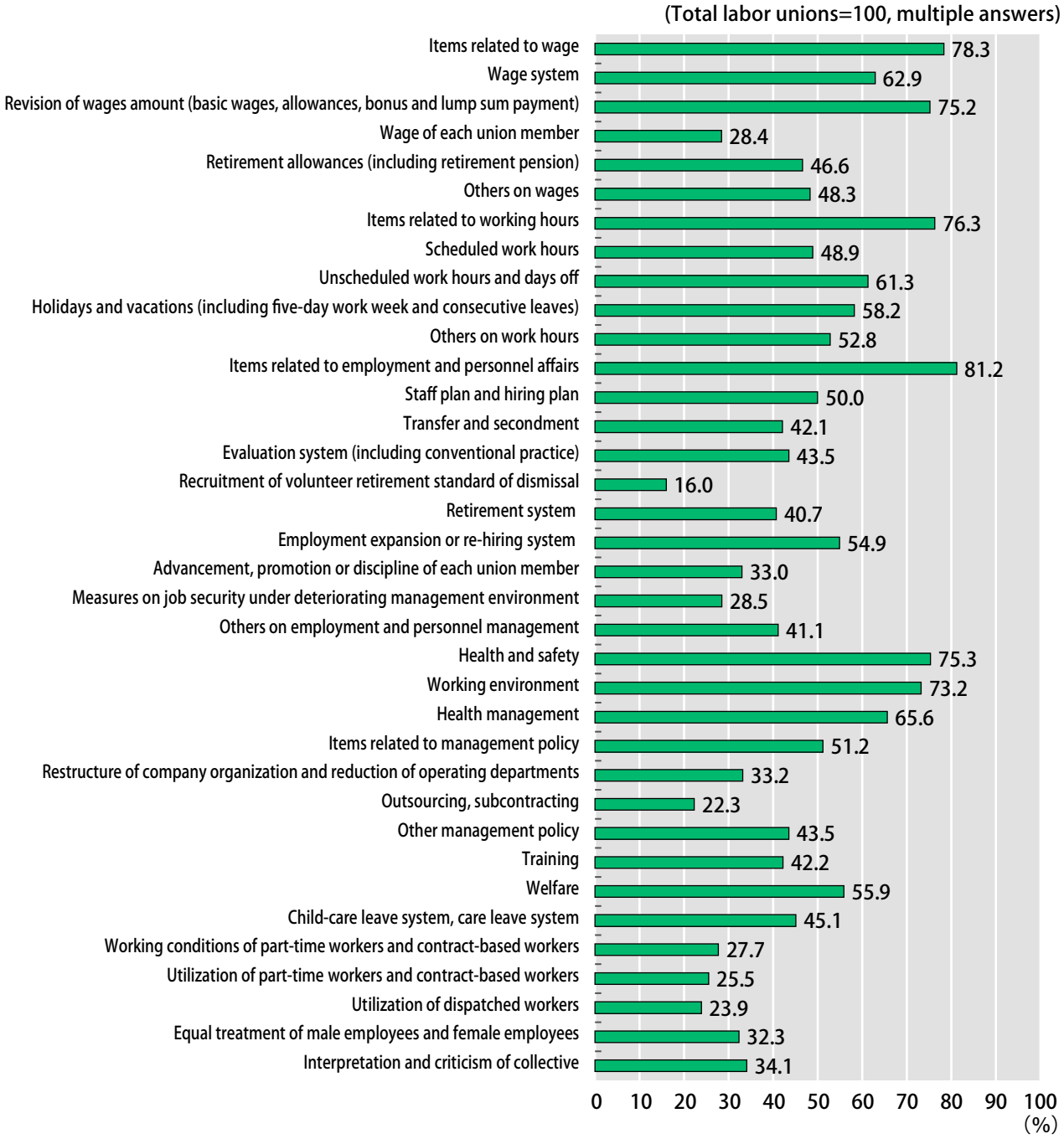
Acts of Labor Dispute Take Place at the Company Level

Japan's labor-management relations are basically cooperative, but labor disputes do occur occasionally. 6.0% of labor unions "have had labor disputes" between labor unions and employers in the last three years representing a decline from the figure of the previous survey. Looking at the ratio of labor unions with labor dispute by their size, while labor unions of all sizes were in the range of 5% to 6%, labor unions with 1,000 to 4,999 members alone marked a lower rate of 3.2%. Furthermore, in industrial trade unions, more labor disputes occurred in the transport and communication industry than in other industries. Most labor disputes take place in enterprises.

Above we examined the structure and function of Japan's labor unions, and labor disputes, but enterprise unions are most familiar to their members and play the most immediate role in maintaining and improving their quality of life. Furthermore, enterprise unions serve as the foundation for relations with industrial unions and national centers. For example, staff and financial resources move from individual enterprise unions to industrial unions in the form of dispatches and financial contributions, and then flow further from industrial unions to national centers.

Accordingly, most board members of industrial trade unions and national centers are dispatched from enterprise unions, and hold positions at those enterprises. Moreover, union dues of major enterprise unions often exceed those of their affiliated industrial trade unions. Labor disputes occur almost exclusively at the enterprise level. However, there are also cases in which there is a reverse flow of information and policies from national centers, through industrial trade unions, to the individual enterprise unions.

IV-5 Ratio of Labor Unions by Items regarding Subject between Labor and Management, Whether or Not Negotiation Was Held and Session through Which Negotiation Was Held (in the Past 3 Years)



Source: Japanese *Labour Unions Today II*-Survey Results on Collective Bargaining and Labour Disputes, Policy Planning and Research Department (2007)
Note: The last 3 years means from July 1, 2004 to June 30, 2007.

3 Shunto: Spring Wage Offensive

What Is Shunto?

Shunto - the spring wage offensive - is a united campaign by the labor unions, led by Industrial Unions. It is launched every year between March and April, the main aim of negotiations being higher wages. Beginning in 1955, Shunto has become a platform for wage rise demands throughout Japan. By establishing a schedule for strike action and unified demands in each industry, Shunto provided a framework that surpassed internal individual corporate negotiations, instead creating a bargaining method whereby wage increases could be secured throughout the entire industry. The aim of Shunto when it was initially launched was, "the realization of wage increases to put wages on a par with Europe and the US."

The results of these negotiations did not merely affect the industrial sector. Their influence fanned out in the late 1950s to form what became known as the "spring wage settlement" throughout Japan as a whole, including small and medium enterprises and the public sector. From the 1960s and the period of rapid economic growth, the driving force behind Shunto - the so-called pattern setter - was the labor-management negotiations in the steel industry, which was representative of the bullish manufacturing sector as a whole. In addition, in 1964, the Japan Council of Metalworkers' Unions (IMF-JC) was formed as the result of the merger of labor unions in the following four metals industry sectors: steel, ship-building and engineering, electric, and automobiles. This private sector metalworkers' organization took the lead in the Shunto wage increase negotiations each year.

An End to Rapid Growth and a Shift in Shunto Policy

The period of rapid growth came to an end with the first oil shock in 1973. Commodity prices jumped 20% bringing confusion to the market and for the first time in the post-war period real GDP recorded negative figures. It was in 1975 that the "theory of economic conformance" first appeared in the Shunto, which was essentially a self-imposed limit on wage increase demands with the aim of achieving price stability. Ever since, Shunto has come to be dominated by this concept. As a result, the initial direction of Shunto's achievement, "large scale wage increases" to realize wage that is equivalent to Europe and the US, was abandoned and an end was brought to the era of two-digit annual wage increases.

After rapid growth ground to a halt, the "theory of economic conformance" espoused by IMF-JC, which took the lead in negotiations resulted in inflation being controlled and made a significant contribution to the macro-economy and the achievement of moderate growth in the 4-5% range. This theory of economic conformance functioned as a kind of "social income distribution mechanism" built in to the Japanese economy. However, following the collapse of the bubble economy, Shunto demands, which had been premised on the theory of economic conformance, were faced with a deflationary economy from the late 1990s, bringing Shunto to a second point of transition in its history.

Shunto in the Post-bubble Era

The collapse of the bubble economy resulted in Japan falling into a recession which has become known as the "lost decade." From the latter half of the 1990s deflationary tendencies intensified, and the labor-side's demand structure of "annual pay increases + commodity price increases + improvements in living standards" at Shunto lost effectiveness, due to the fact that they had been premised on continuous economic growth. The wage increase rate accordingly slumped (see IV-6).

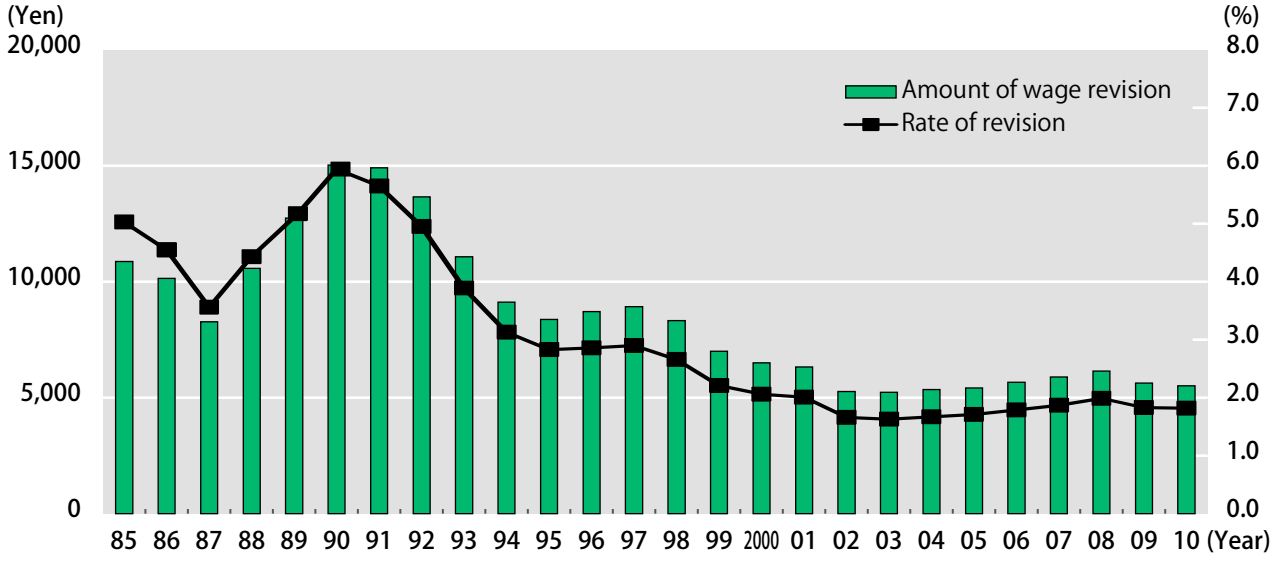
Entering the 21st century, Shunto found it difficult even to maintain the so-called annual pay increases (equivalent to 2%), impacted by the long recession, permeation of performance-based pay system, the persistent deflationary economy, and the hollowing out of industry, among other factors. From 2002 the IMF-JC ceased to make a unified request for hikes in

base pay, and the phenomenon of Shunto ceasing to seek wage hikes continued. Therefore, management has thus declared that "Shunto is dead" in that industry-wide settlements for hikes in base pay have come to an end.

Since being written off for a second time, however, a new role is being sought for Shunto as a means of correcting disparities. One new initiative for remedying disparities between enterprises is the determination of wages based on occupational rates. IMF-JC is exploring migrating to an occupational wage-based method of determining wage levels, while the Japanese Electrical, Electronic and Information Union moved to an occupational wage-based demand system, beginning from the 2007 Shunto, to demand wages commensurate with the value of work according to occupation. Moreover, based on the fact that there are pronounced wage gaps depending on the scale of the company (between large companies and small and medium-sized enterprises) and also depending on the form of employment (between regular and irregular employment,) the Japanese Trade Union Confederation (JTUC-RENGO) launched the "joint offensive for small and medium-sized enterprises" and the "joint offensive for part-time workers." Both joint offensives aim to redress the gap by raising the overall level of wages and working conditions.

The overall wage level in Japan has been on a continuing declining trend, having peaked in 1997. As if to add insult to injury, due to the impact of the worldwide economic crisis in the autumn of 2008, wages in 2009 were forced into their biggest fall since the Second World War. Accordingly, in the 2011 Shunto, labor representatives entered into negotiations based on a stance of the recovery of wage levels to their peak levels, but just at the critical point, the Great East Japan Earthquake occurred. With both management and labor working towards the recovery of industry and the region concerned, and developments such as a decision being taken to cut the wages of national civil servants by 5-10% for the next three years, it is impossible to predict how the situation will develop in the future.

IV-6 Fluctuations in Revisions to Average per Capita Wage and Rate of Revision (Weighted Average)



Source: Results of Spring Wage Negotiations by major private companies, Ministry of Health, Labour and Welfare

Notes: In principle up to 2003, companies surveyed are those with a capital of over 2 billions and whose labor union is comprised of over 1,000 workers, among member enterprises in the first section of Tokyo Stock Exchange or Osaka Stock Exchange (before 1979: simple average, after 1980: weighted average). Meanwhile in principle after 2004, they are those with a capital of over 1 billion and whose labor union is comprised of over 1,000 workers (weighted average).

4 Labor Disputes and Resolution Systems

Decline in Collective Disputes and Increase in Individual Disputes

Due to the impact of the diversification of forms of employment resulting from changes in Japan's socioeconomic structure, the unionization rate is demonstrating a downward trend (standing at an estimated 18.5% as of the end of June 2010, according to the summarized findings of the 2010 Basic Survey on Labor Unions published by the Ministry of Health, Labour and Welfare on December 14, 2010), and the dispute settlement and collective industrial dispute resolution functions of unions (measured in terms of the number of unfair labor practice relief and dispute adjustment cases) are weakening. At the same time, the diversification of forms of employment and consequent increase in individualized employment management are pushing up the number of individual labor disputes.

After providing an overview of the collective and individual dispute resolution systems, this section examines the operational status of each and provides an introduction to recent trends in collective and individual disputes.

Collective Labor Disputes

1. Resolution systems

The Labor Union Act prescribes a system for obtaining relief from unfair labor practices (Article 7) and a system of labour relations commissions (Article 19 onwards) involved in providing such relief in order to protect and promote labor union activity by providing an avenue of redress in the event that an employer commits certain acts against a labor union or its members.

The Labor Relations Adjustment Act takes as its starting point the settlement of labor disputes through voluntary adjustment by the parties concerned (Articles 2 and 4), and provides for government assistance with this process (Article 3).

(1) Unfair labor practice relief system

The unfair labor practice relief system in the Labor Union Act prohibits prejudicial treatment, refusal of collective bargaining, and dominance and intervention by employers against labor unions and union members, and provides for corrective measures in the event of such acts in order to normalize future relations between labor and management and ensure the functioning of the right to organize, the right of collective bargaining, and right of collective action as guaranteed in Article 28 of the Constitution of Japan.

The bodies involved in providing relief are labour relations commissions (both prefectural and central), which are independent tripartite administrative bodies made up of representatives of the public interest, employees, and employers.

Examinations of unfair labor practice cases consist of the following steps: (1) filing of a complaint in order to apply for relief, (2) investigation (at which point the parties present their arguments, evidence is gathered, and the points at issue are identified), (3) hearing (including questioning of witnesses), (4) meeting of a public interest committee (to determine the facts and details of any order to be issued in response), and (5) issuance of an order (Article 27 onwards).

At the final stage of the proceedings, the labour relations commission either rejects the case or orders remedial action through an administrative decision. Relief orders are drafted according to the actual circumstances of each case, and labour relations commissions are allowed considerable discretion in formulating the details of such orders (Second Hato Taxi Case: Judgment of the Grand Bench of the Supreme Court dated February 23, 1977).

Parties that object to the decision of the prefectural labour relations commission following the first examination may request reexamination by the Central Labour Relations Commission (hereinafter referred to as the CLRC) (Article 27-15) or dispute the case further in court by bringing an action to have the order (administrative decision) annulled (Article

27-19).

In the event that an opportunity arises for resolution of a case through discussion between labor and employer in the process of the investigation and hearing, a labor relations commission may recommend that the parties concerned reach a settlement (Article 27-14, paragraph (1)). If a settlement is reached, the case is concluded (Article 27-14, paragraph (2)).

(2) Labor disputes adjustment system

The methods of adjustment of labor disputes stipulated in the Labor Relations Adjustment Act are conciliation, mediation, and arbitration. Labour relations commissions are involved in adjustment. As well as situations where dispute tactics have already taken place, labor disputes subject to adjustment also include situations where there is concern that dispute tactics might take place (Article 6). Moreover, in the Labor Relations Adjustment Act, dispute tactics refer to actions that hinder the normal duties carried out by the parties concerned on both the labor and the management side, such as slowdowns and lockouts, as well as strikes (Article 7). The following provides an outline of the adjustment methods by type.

[Conciliation] Conciliation (Article 10 onwards) commences following an application by one or both parties concerned. Conciliators appointed by the labour relations commission chairperson from among a register of conciliators (often consisting of a mix of representatives of the public interest, employees, and employers) ascertain the assertions of each party and produce a conciliation proposal. However, the decision on whether to accept this proposal is left up to the parties themselves.

[Mediation] Mediation (Article 17 onwards) commences following either: (1) an application from both parties, (2) an application based on the provisions of a collective agreement by one or both parties, or (3) in cases involving public services, an application from one interested party, the decision of the labour relations commission, and the request of the Minister of Health, Labour and Welfare or the prefectural governor. Mediation is carried out by a tripartite mediation committee formed of representatives of the public interest, employees, and employers, which is appointed by the labour relations commission chairperson and on which employees and employers are equally represented. Both parties present their opinions, and the mediation committee drafts a mediation proposal that it advises them to accept. Acceptance of this proposal is left up to the parties themselves.

[Arbitration] Arbitration (Article 29 onwards) takes place in the event of an application either by both parties, or by one or both parties in accordance with the provisions of a collective agreement. The chairperson of the labour relations commission appoints three people agreed to by the parties concerned from among public interest members to form an arbitration committee. This committee meets after hearing about the circumstances from the parties concerned, and determines the details of an award by means of a majority vote of the arbitration members. The arbitration award is prepared in writing (Article 33) and has the same force as a collective agreement (Article 34).

However, in the case of dispute tactics being undertaken by parties involved in public services (Article 8: transportation, postal and telecommunications services, water, electricity and gas supply, or medical and public health services), the labour relations commission and the Minister of Health, Labour and Welfare or prefectural governor must be informed at least 10 days in advance (Article 37, paragraph (1)). Moreover, in the event of dispute tactics relating to any kind of business, the parties must immediately notify the labour relations commission or prefectural governor (Article 9).

2. Operational status and trends relating to cases

(1) Unfair labor practice cases

The number of unfair labor practice cases handled over the past six or seven years is shown in IV-7 and 8. Looking at these, one can say that the number of pending cases is on the decline, both in the case of first examinations and reexaminations. In particular, with regard to reexaminations, although the number of new cases being filed is declining, one can see no major change in the number of cases undergoing first

examination (although the number of cases has been increasing since reaching fewer than 300 cases in 2005). At the same time, the number of cases carried over from the previous fiscal year is falling (although in 2009 only, the number of first examinations rose compared with the previous year). As a result of this, the total number of pending cases is also declining.

With regard to the number of cases brought to a conclusion, whereas, generally speaking, there is a tendency for more reexaminations (see IV-8) to be concluded by "order/decision" than by "withdrawal/settlement," the overwhelming majority of first examinations (see IV-7) are concluded by "withdrawal/settlement" rather than by "order/decision." Moreover, in the case of first examinations, although there is some variation in the total number of cases concluded, depending on the year, it would seem reasonable to conclude that, in general, the figures are holding steady. On the other hand, the total number of reexamination cases concluded fell into decline after peaking in 2006, subsequently declining or holding steady, but in 2009 there was a significant fall, reaching 53 cases.

Incidentally, the unfair labor practice relief system was revised by means of an amendment to the Labor Union Act in 2004, in order to expedite examinations and increase their accuracy by improving examination procedures and systems. The main revisions were as follows: (1) systematic examination (formulation of examination plans and establishment of targets for examination periods); (2) swifter and more accurate fact-finding (through ordering the appearance of

IV-7 Number of Unfair Labor Practice Cases (First Examinations)

Year	Cases pending			Cases concluded		
	Carried over from previous year	New cases	Total pending	Withdrawals/ settlements	Orders/ decisions	Total concluded
2003	856 (1)	363	1,219 (1)	280	116	396
2004	823 (1)	311	1,134 (1)	240	135	375
2005	759 (1)	294	1,053 (1)	273	135 (1)	408 (1)
2006	645	331 (2)	976 (2)	247	108	357 (2)
2007	619	330 (1)	949 (1)	314 (1)	147	461 (1)
2008	488	355	843	210	98	308
2009	535	395 (1)	930 (1)	273	103	377 (1)

Source: Central Labour Relations Commission website (compiled by the author from statistical tables published for multiple years)
Note: Figures in brackets denote the number of first examinations conducted by the CLRC included in the main figure. The total number of cases concluded in 2006 includes two cases that were transferred. The total number of cases concluded in 2009 includes one case that was transferred.

IV-8 Number of Unfair Labor Practice Cases (Reexaminations)

Year	Cases pending			Cases concluded		
	Carried over from previous year	New cases	Total pending	Withdrawals/ settlements	Orders/ decisions	Total concluded
2004	270	83	353	47	25	72
2005	281	90	371	57	65	122
2006	249	77	326	79	69	148
2007	178	76	254	37	59	96
2008	158	51	209	38	57	95
2009	114	54	168	19	34	53

Source: Central Labour Relations Commission website (compiled by the author from statistical tables published for multiple years)

witnesses and submission of articles, and by limiting the submission of evidence in annulment actions relating to articles subject to submission orders); (3) upgrading of the CLRC's examination system (to enable the issuance of orders through consultations by a subcommittee consisting of five public interest members, and the provision of training and assistance to prefectural labour relations commissions by the CLRC); and (4) promotion of settlements (by allowing labour relations commissions to advise the parties to reach a settlement, and by deeming the execution of written statements of settlement to be a debt).

Of these institutional developments, in the case of the establishment of targets for examination periods mentioned in (1) above, the target set is "to conclude new cases within as short a period as possible within one year and six months" (moreover, as of November 2010, the same target was set for cases submitted for reexamination by the CLRC during the three years from 2011 to 2013). In addition, if we look at the "conclusion status" of "new cases filed" from January 2005, which is shown on the Examination Period Target Achievement Status (End of 2010) published on the website of the CLRC, we can see that the number of new cases filed was 434, of which the "total number of cases concluded" was 352 (incidentally, the figure for "average number of days required for processing" was 418). Furthermore, of the total number of cases concluded, the number of cases concluded within the target period of one year and six months was 272, giving a target achievement rate of 77.3%.

Moreover, another of the CLRC's targets was "to resolve during the next three years as many as possible of the cases that had been pending for more than one year and six months as of the end of 2007 (long-term backlogged cases), with the understanding and cooperation of the parties concerned"; as of the end of that year, there were 93 long-term backlogged cases. With regard to the status of those cases as of the end of 2010, 64 of them (68.8%) had been concluded, while 29 remained unconcluded.

(2) Labor dispute adjustment cases

The situation regarding pending and concluded labor dispute adjustment cases is shown in IV-9. Looking at this, with regard to pending cases, one can say that although the number of cases carried over from the previous year has demonstrated a downward trend in recent years, compared with the situation previously, the number of newly pending cases and the total number of cases have, generally speaking, leveled off.

Broken down by means of adjustment, the overwhelming majority are adjusted by conciliation. This is thought likely to be due mainly to the simplicity of the procedures and the fact that conciliation actually fulfills a mediatory role in identifying the various points at issue.

IV-9 Number of Pending and Concluded Adjustment Cases

Year	Cases pending						Cases concluded				Carrying over to next year
	Carried over from previous year	New cases pending				Total	With-drawal	Settle-ment	Aban-doned	Total	
		Concil-iations	Medi-ations	Arbitr-ations	Total						
2004	130 (10)	526 (8)	4	1	531 (8)	661 (18)	147	279 (4)	133 (2)	559 (6)	102 (12)
2005	102 (12)	560 (5)	4	0	564 (5)	666 (17)	139	270 (4)	130 (1)	539 (5)	127 (12)
2006	127 (12)	515 (2)	5 (1)	1	521 (3)	648 (15)	108	289 (3)	173 (2)	570 (5)	78 (10)
2007	78 (10)	467 (3)	5 (1)	0	472 (4)	550 (14)	103 (12)	219 (2)	149	471 (14)	79
2008	79	546 (4)	6 (2)	0	552 (6)	631 (6)	85	264 (4)	181 (2)	530 (6)	101

Source: Central Labour Relations Commission website

Notes: 1) Figures in brackets denote the number of cases relating to specified independent administrative institutions included in the main figure.
2) Figures for withdrawals include cases that did not get underway.

Regarding the status of the conclusion of cases, whereas the total number and the number of resolutions have largely remained constant, the number being concluded by withdrawal has been declining, while the number being concluded due to abandonment or failure of adjustment can be said to be on the rise.

If we look at the conclusion status, we can see that the resolution rate has been demonstrating a downward trend each year (see IV-10). One of the reasons for this would seem to be the decline in the number of cases being withdrawn.

Regarding the grievances leading to labor dispute adjustment, we can see that, in general, financial grievances have accounted for approximately 35% and non-financial grievances for approximately 65% in all years (see IV-11). A breakdown of the financial grievances shows that the proportion accounted for by "lump-sum payments" is somewhat higher than all other categories except "other." The most common non-financial grievance is "pursuit of collective bargaining," at around 30%, followed by "management/personnel," at around 22%.

Looking at trends in the resolution rate, we can see that it has been on the decline year-on-year (see IV-12). Until 2008, the figures for the number of cases concluded and the number of cases resolved were both mostly holding steady, but there was a rise in 2009 compared with the previous year, in cases handled by prefectural labour relations commissions and all labour relations commissions, with the number of cases concluded increasing by 200 and the number of cases listed as resolved increasing by 100. It is thought that this might be one of the reasons for the decline in the resolution rate.

IV-10 Adjustment Case Resolution Rate

Year	Number of cases concluded (a)	Number of cases withdrawn (b)	Number of cases resolved (c)	Resolution rate
2004	559 (6)	147	279 (4)	67.7%
2005	539 (5)	139	270 (4)	67.5%
2006	570 (5)	108	289 (3)	62.6%
2007	471(14)	103 (12)	219 (2)	59.5%
2008	530 (6)	85	264	59.3%

$$\text{Resolution rate} = \frac{\text{Resolution (c)}}{\text{Number of cases concluded (a)} - \text{Number of cases withdrawn (b)}} \times 100$$

Source: Central Labour Relations Commission website

Notes: 1) Figures in brackets denote the number of cases relating to specified independent administrative institutions included in the main figure.
2) Figures for withdrawals include cases that did not get underway.

IV-11 Grievances Giving Rise to New Pending Labor Dispute Adjustment Cases (All Labour Relations Commission)

(Number of cases and percentage of total)

	2005		2006		2007		2008		2009	
Total	991(13)	100.0	956(6)	100.0	851(6)	100.0	1,014(13)	100.0	1,324(6)	100.0
Financial	333(7)	33.6	371(4)	38.8	306	36.0	332(4)	32.7	451(7)	34.1
Wage increases	35(3)	3.5	40(1)	4.2	27	3.2	34(2)	3.4	41(7)	3.1
Lump-sum payments	75	7.6	95	9.9	54	6.3	49	4.8	76	5.7
Working hours and holiday leave	27	2.7	30	3.1	35	4.1	31	3.1	44	3.3
Other	196(4)	19.8	206(3)	21.5	190	22.3	218(2)	21.5	290	21.9
Non-financial	644(6)	65.0	569(1)	59.5	531(6)	62.4	667(9)	65.8	855	64.6
Management/ personnel	228	23.0	192	20.1	191	22.4	222(1)	21.9	313	23.6
Pursuit of collective bargaining	317(5)	32.0	263(1)	27.5	246(4)	28.9	294(3)	29.0	380(1)	28.7
Union approval/ activities	33	3.3	40	4.2	21(1)	2.5	42(5)	4.1	68	5.1
Other	66(1)	6.7	74	7.7	73(1)	8.6	109	10.7	94	7.1
Conclusion or complete revision of agreement	14	1.4	16(1)	1.7	15	1.8	15	1.5	18	1.4
Total number of cases	564		521		472		552		733	
Average number of grievances per case	1.76		1.83		1.80		1.84		1.81	

Source: Secretariat of the Central Labour Relations Commission, *64th Annual Report on Labour Relations Commissions 2009*, (2010) pp.137
Notes: Totals do not match the total number of cases due to the inclusion of multiple grievances per case. Figures in parentheses indicate the number of cases handled by the CLRC, and are included in the totals to their left.

IV-12 Labor Dispute Adjustment Cases Resolution Rate (excluding Specified Independent Administrative Agencies)(All Labour Relations Commission)

(Number of cases and percentage of total)

Labour Relations Commission	Case \ Year	2005	2006	2007	2008	2009
Prefectural labour relations commissions	No. of cases concluded excluding withdrawals and transfers	350	368	316	377	571
	No. of resolutions	237	226	187	222	335
	Resolution rate	67.7	61.4	59.2	58.9	58.7
Central Labour Relations Commission	No. of cases concluded excluding withdrawals and transfers	3	2	2	6	6
	No. of resolutions	2	0	2	6	5
	Resolution rate	66.7	0.0	100.0	100.0	83.3
All labour relations commissions	No. of cases concluded excluding withdrawals and transfers	353	370	318	383	577
	No. of resolutions	239	226	189	228	341
	Resolution rate	67.7	61.1	59.4	59.5	59.1

Source: Secretariat of the Central Labour Relations Commission, *64th Annual Report on Labour Relations Commissions 2009*, (2010) pp.146
Note: Resolution rate = number of resolutions / number of cases concluded excluding withdrawals and transfers

If we look at the average time required for adjustment, we can see that there is considerable variation according to the form of adjustment and the year (see IV-13). If one were compelled to list the characteristics in recent years, one would have to say that in 2009, in the case of conciliation by all labour relations commissions, the number of cases concluded increased by more than 100, and we can see that the total number for all labour relations commissions consequently increased in the same way. This, probably, is why the average number of days required for adjustment is growing.

Having said that, the aforementioned statement does not necessarily apply to conciliation by the CLRC or mediation by all labour relations commissions. More specifically, with regard to the former, only two cases were concluded in 2009, down significantly from ten cases in 2008, but the number of days required for adjustment grew considerably, from 28.1 days to 119.0 days. Moreover, with regard to the latter, although the number of cases concluded rose considerably from three cases in 2008 to 24 cases in 2009, it would be fair to say that the average number of days required for adjustment remained more or less steady in both years.

Incidentally, in recent years, according to data published on the CLRC website (published on May 20, 2011), with regard to collective labor dispute adjustment cases, the number of joint labor union cases and last-minute cases where a worker joined a joint labor union after having become subject to dismissal or other disposition and the union in question applied for adjustment (excluding those made by specified independent administrative institutions) has been on the rise; in particular, the share of these two cases among all cases has been growing (see IV-14). In 2010, the number of joint union cases was 393, approximately 70% of all cases;

IV-13 Average Length of Labor Dispute Adjustment Cases (All Labour Relations Commission)

(Number of cases and days)

Year	Conciliations				Mediations				Total			
	All Labour Relations Commission		Central Labour Relations Commission		All Labour Relations Commission		Central Labour Relations Commission		All Labour Relations Commission		Central Labour Relations Commission	
	Cases concluded excluding withdrawals and transfers		Cases concluded excluding withdrawals		Cases concluded excluding withdrawals		Cases concluded excluding withdrawals		Cases concluded excluding withdrawals and transfers		Cases concluded excluding withdrawals and transfers	
2005	393	47.9 (34.3)	8	39.8 (32.5)	3	48.0 (30.7)	—	— (—)	396	47.9 (34.3)	8	39.8 (32.5)
2006	452	47.1 (34.2)	7	34.4 (28.0)	4	27.5 (27.5)	1	8.0 (8.0)	456	47.0 (34.2)	8	31.1 (25.5)
2007	361	42.8 (36.6)	4	56.3 (43.5)	4	52.8 (32.5)	—	— (—)	365	42.9 (36.6)	4	56.3 (43.5)
2008	442	43.7 (33.6)	10	28.1 (20.1)	3	19.3 (19.3)	2	9.5 (9.5)	445	43.6 (33.5)	12	25.0 (18.3)
2009	554	50.5 (36.1)	2	119.0 (61.0)	24	18.9 (18.9)	7	33.4 (33.4)	578	49.2 (35.4)	9	52.4 (39.6)

Source: Secretariat of the Central Labour Relations Commission, *64th Annual Report on Labour Relations Commissions 2009*, (2010) pp.147
Note: Number of cases concluded, excluding withdrawals and transfers, pending for less than one year.Figures in parenthesis indicate the number of days treating periods in excess of two months as 61 days.
Author's note: There are no statistical data for arbitration, so this has been omitted.

among these, 207 were last-minute cases, accounting for approximately 53% of the total number of joint union cases, and even as a proportion of all cases, these cases account for approximately 37%. This is just conjecture, but the main reasons for this are thought to be the decline in the unionization rate, the rise in the number of irregular employees, and the increase in the number of non-unionized staff in managerial positions.

With regard to the occurrence of labor disputes, according to the Ministry of Health, Labour and Welfare's *Overview of the Results of the 2009 Survey on Labour Disputes* (published on August 19, 2010), while the number of labor disputes involving dispute tactics, such as strikes, was confined to 92 in 2009, the number of labor disputes not involving dispute tactics was 688. Moreover, if we look at trends in labor disputes over the last ten years, we can see that the number of labor disputes involving dispute tactics accounts for a low proportion in comparison with those that do not involve such tactics, and that the figures for the former are demonstrating a gradual downward trend.

IV-14 Trends Relating to Joint Labor Union Cases and Last-minute Cases among Adjustment Cases (Collective Labor Disputes) (excluding Specified Independent Administrative Institutions)

Year \ cases	All cases	Joint labor union cases	Last-minute cases	
2004	523	300 (57.4%)	134	<44.7%> (25.6%)
2005	559	333 (59.6%)	165	<49.5%> (29.5%)
2006	518	305 (58.9%)	131	<43.0%> (25.3%)
2007	468	305 (65.2%)	143	<46.9%> (30.6%)
2008	546	375 (68.7%)	181	<48.3%> (33.2%)
2009	730	487 (66.7%)	269	<55.2%> (36.8%)
2010	563	393 (69.8%)	207	<52.7%> (36.8%)

Source: Central Labor Relations Commission, *2010 Summary of the Total Number of Labor Disputes Handled Nationwide* (published on May 20, 2011), Table 3

Note: Figures in round brackets denote the share of all cases. Figures in angle brackets denote the share of joint labor union cases.

"Joint labor union" refers to labor unions organized by workers as a regional unit that transcend the boundaries of a single company; these are characterized by the fact that their members are mainly individuals who work at small or medium-sized enterprises. More specifically, they are called "joint labor unions," "general unions," or "regional unions".

"Last-minute cases" refers to cases where the worker joins the joint labor union after being dismissed and the union in question applies for conciliation in regard to the dismissal.

Individual Labor Disputes

Japan has two systems for resolving individual labor disputes: one administrative and one judicial.

1. Administrative system

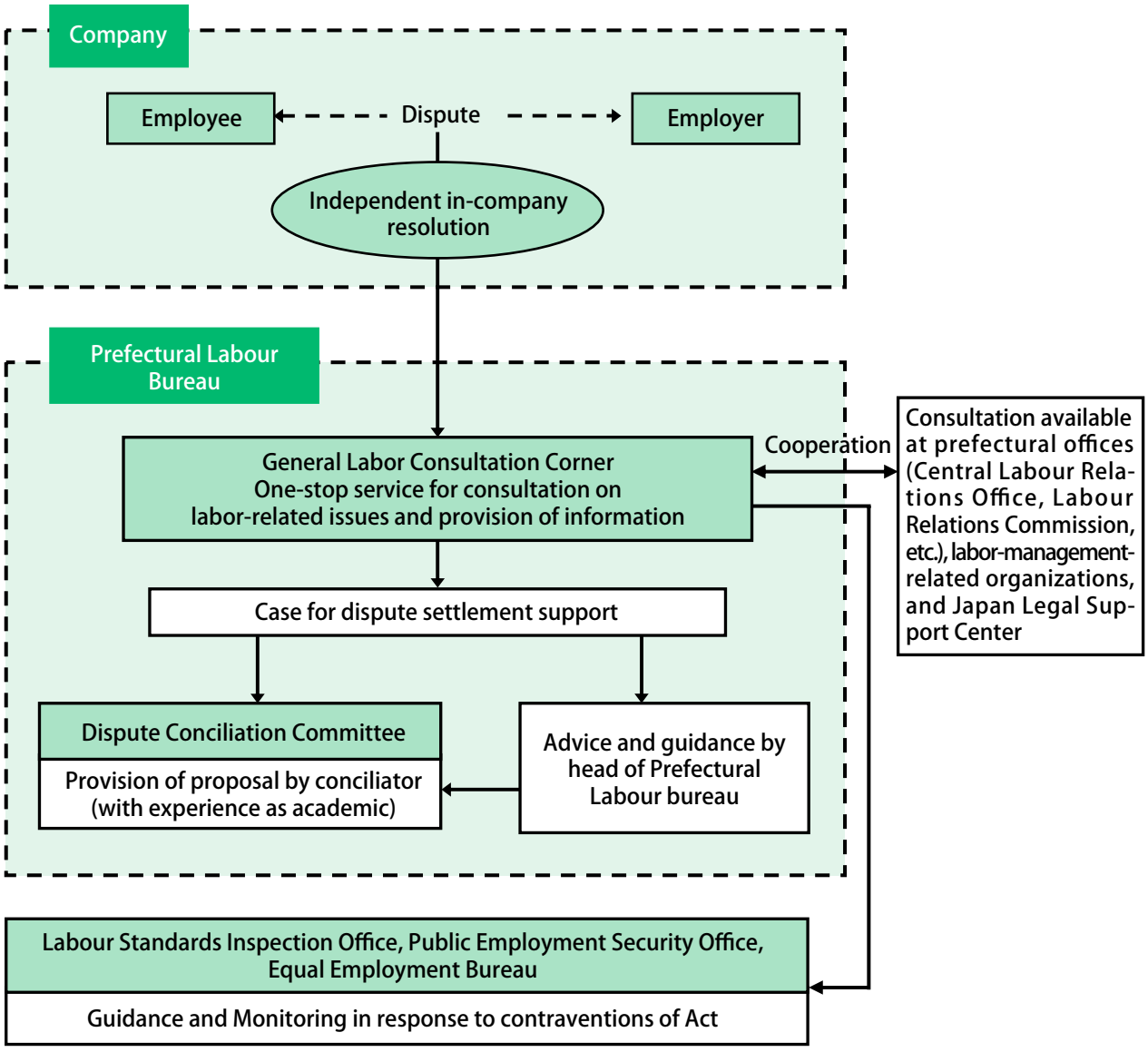
(1) Resolution system

The administrative system for the resolution of individual labor disputes is based on the Act on Promoting the Resolution of Individual Labor Disputes. Put simply, the resolution system prescribed by this act is focused on voluntary resolution between the parties concerned (Article 2) and consists of the following three steps: "information provision and consultation" for the parties concerned at a consultation service (Article 3), followed by "advice and guidance" by the head of the labour bureau in question, in the event that a voluntary resolution cannot be achieved between employee and employer (Article 4), and finally "conciliation" by the Dispute Resolution Council (Article 5) (see IV-15).

A wide range of disputes concerning the initiation, conduct, and termination of employment are eligible

for resolution by this system, including problems at the time of hiring, withdrawal of job conditional offers of employment, redeployments, temporary secondments, job transfers, Lowering of working conditions, discrimination such as sexual harassment in the workplace, and dismissals (including dismissals due to economic reasons and termination of fixed-term contract) (Article 1 and *Concerning the Enforcement of the Act on Promoting the Resolution of Individual Labor-Related Disputes*, September 19, 2001, Ministry of Health, Labour and Welfare Notification No.129, (2) Individual Labor-Related Disputes, 1. Purpose).

IV-15 Flowchart for Dispute Settlement According to the Act on Promoting the Resolution of Individual Labor Disputes



Source: Ministry of Health, Labour and Welfare, *Status of Implementation of Individual Labour Dispute Resolutions Systems in FY 2007* (released May 23 and revised June 12, 2008)

(2) Operational status and trends relating to cases

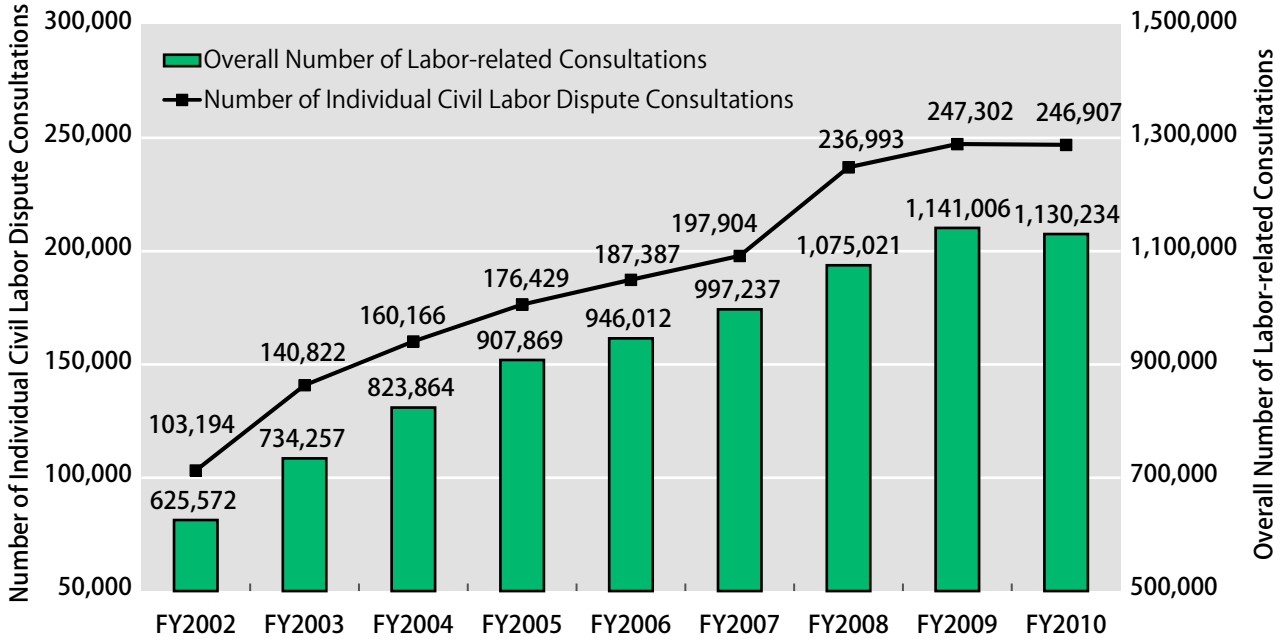
The following provides an overview of how this dispute settlement system operated in FY2010 (based on *The Operational Status of the Individual Labor Dispute Resolution System in FY2010* published by the Ministry of Health, Labour and Welfare on May 25, 2011).

[Consultations] There were approximately 1,130,200 consultations in FY2010, representing a slight decrease of 0.9% on the previous fiscal year. Of these, the number involving individual civil labor disputes (including dismissals not related to contravention of labor legislation or the deterioration of working conditions) amounted to approximately 247,000, a slight decrease of 0.2% compared with the previous fiscal year, similar to the situation for consultations in general (see IV-16).

With regard to the breakdown of individual civil labor disputes, the most common consultation was in regard to "dismissals" (21.2%), followed by "other working conditions" (17.6%), "bullying or harassment" (on the rise, at 13.9%), "lowering of working conditions" (13.1%), "inducement toward retirement" (9.1%), and "termination of employment contract" (due to the expiry of the term of a fixed-term contract) (4.9%) (see IV-17).

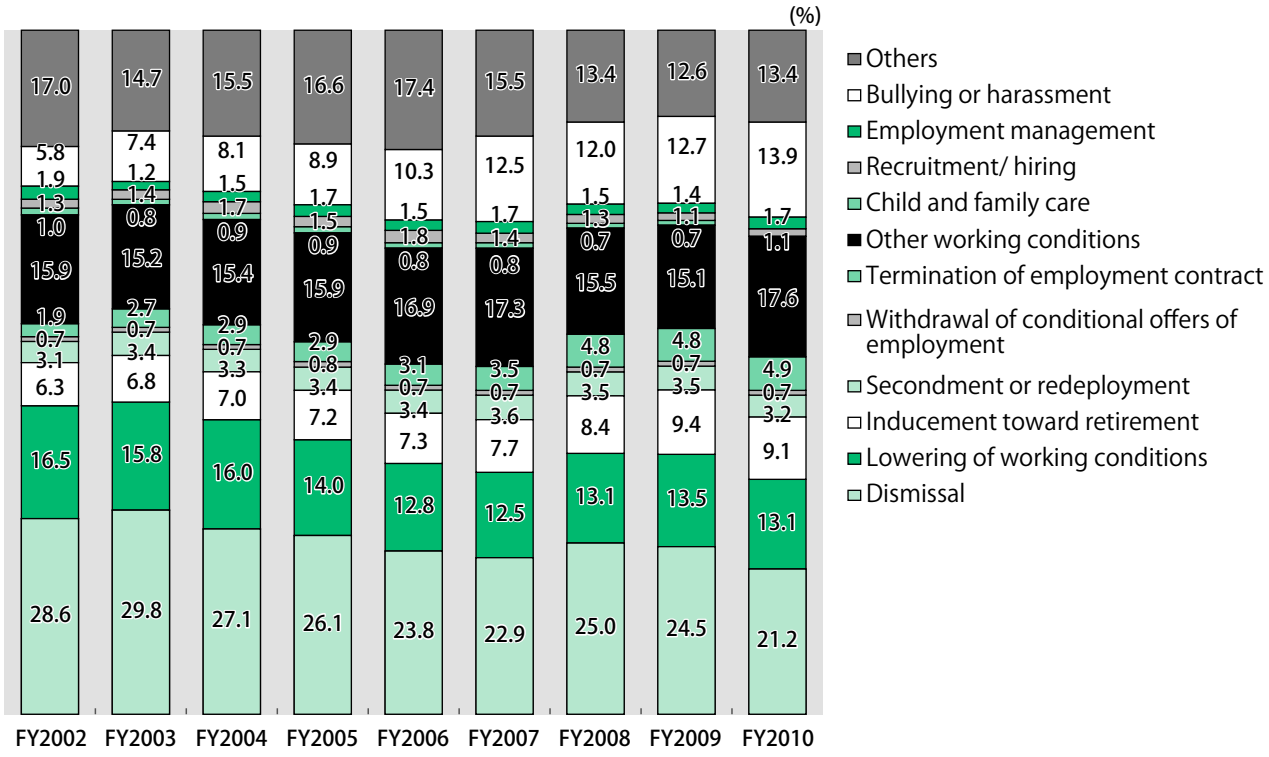
It would be fair to say that the trends in the breakdown of these consultations are more or less the same at the stage of applications for advice and guidance from the heads of prefectural labour bureaus and at the stage of application for conciliation by the Dispute Resolution Council. Thus, in the sense that the same kind of trend is seen in regard to "bullying or harassment," this signifies that this problem is becoming a crucial issue in relation to labor policy. However, the only thing that appears to differ in the overall trend for conciliation in particular is that, at the application stage, while cases relating to "dismissals" account for a high proportion, at around 40% each year (37.5% in FY2010), cases involving "lowering of working conditions" have fallen to somewhere in the middle of the 8% range in recent years (see IV-18).

IV-16 Trends in the Number of Cases of General Labor Consultations (FY2002-2010)



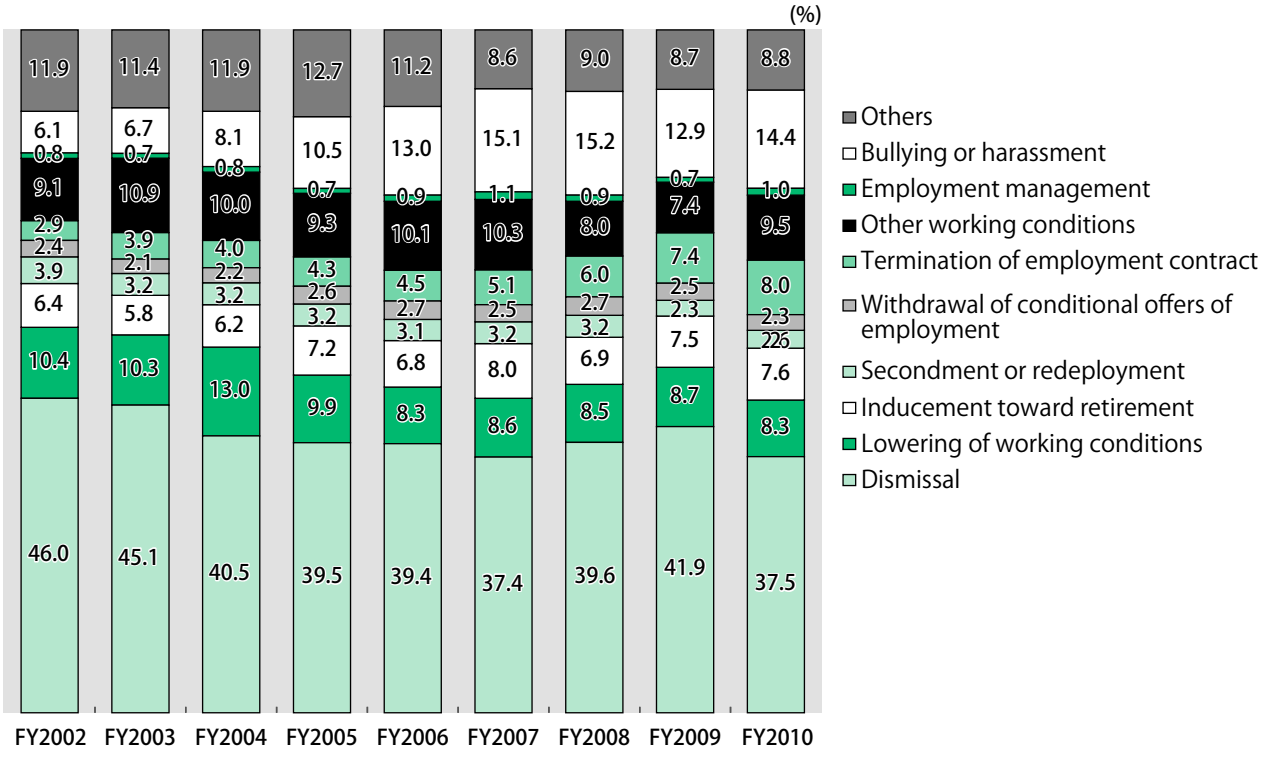
Source: Ministry of Health, Labour and Welfare, Status of Implementation of Individual Labour Dispute Resolutions Systems in FY 2010 (Released May 25, 2011) Fig. 1

IV-17 Breakdown of Individual Civil Labor Disputes (FY2002-2010)



Source: Ministry of Health, Labour and Welfare, *Status of Implementation of individual Labour Dispute Resolutions Systems in FY2010* (released May 25, 2011), Fig. 2

IV-18 Breakdown of the Content of Applications for Conciliation (FY2002-2010)



Source: Ministry of Health, Labour and Welfare, *Status of Implementation of individual Labour Dispute Resolutions Systems in FY2010* (released May 25, 2011), Fig. 6

Moreover, if we look at the forms of employment of those seeking consultations, whereas there was a downward trend year-on-year in relation to so-called "regular employees," down to 44% in FY2010, the figure for "fixed-term contract employees" reached an all-time high of 10.2% (see IV-19). A similar situation can be seen with regard to applications for advice and guidance, and conciliation, with a downward trend in relation to cases involving regular employees, and an upward trend in relation to cases involving non-regular employees.

[Advice and guidance] The number of requests received for advice or guidance from the heads of prefectural labour bureaus amounted to 7,692 in FY2010, a decrease of 1.1% compared with the previous fiscal year.

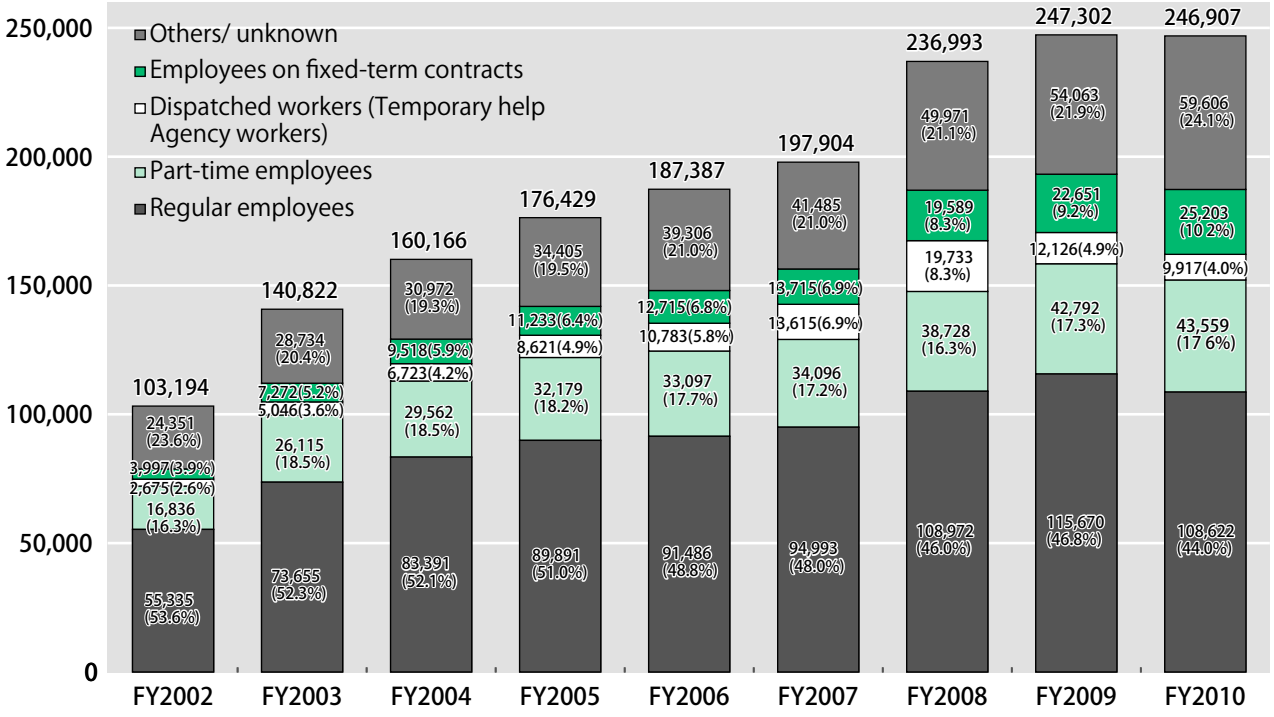
Regarding the attributes of applicants, a breakdown of employees by employment status shows that 3,715 cases were filed by regular employees (4,006 in the previous fiscal year), 1,823 cases were filed by part-time employees or employees with side-jobs (*arbeit*) (1,769 in the previous fiscal year), 356 cases were filed by dispatched employees (temporary help agency workers) (348 in the previous fiscal year), and 1,297 cases were filed by employees on fixed-term contracts (1,080 in the previous fiscal year).

In terms of the scale of the business establishment to which they are affiliated, the largest proportion – 31.8% – was accounted for by those from establishments with 10 to 49 employees, followed by 18.5% from establishments with fewer than 10 employees, and 11.7% from establishments with 100 to 299 employees. Moreover, applications from employees at non-unionized establishments accounted for 65.5%. Consequently, it seems that individual labor disputes tend to arise at quite small or comparatively small business establishments with no labor union.

Of the applications received, the number of cases for which procedures were completed during FY2010 totaled 7,673, of which the number of cases for which advice or guidance was provided was 7,486 (97.6%).

97.6% of the applications received for advice or

IV-19 Trends in the Number of Cases of Individual Civil Labor Dispute Consultations (FY2002-2010, by form of employment)



Source: Ministry of Health, Labour and Welfare, Status of Implementation of individual Labour Dispute Resolutions Systems in FY2010 (released May 25, 2011), Fig. 3

guidance concerning disputes were dealt with within a period of one month, an increase of 2.0% compared with the previous fiscal year.

[Conciliation] The number of conciliation applications received in FY2010 amounted to 6,390, a considerable decrease of 18.3% compared with the previous fiscal year.

Looking at the breakdown of applicants in terms of the scale of the business establishment to which they are affiliated, the largest proportion – 31.0% – was accounted for by those from establishments with 10 to 49 employees, followed by 18.9% from establishments with fewer than 10 employees, and 12.5% from establishments with at least 300 employees. Moreover, 72.0% of employees were from business establishments with no labor union.

Of the applications received for conciliation, the number of cases for which procedures were completed during FY2010 totaled 6,416, with 2,362 cases (36.8%) resulting in agreement between the parties in dispute, 394 cases (6.1%) being withdrawn due to reasons pertaining to the applicant, and 3,629 cases (56.6%) resulting in conciliation being broken off for reasons such as the non-participation of one or other of the parties in dispute. With regard to the time taken to deal with these cases through conciliation, 56.9% were dealt with within a period of one month, while 36.7% were dealt with within a period of more than a month but less than two months, meaning that 93.6% were dealt with within a period of two months (an increase of 3.1% compared with the previous fiscal year).

In addition, since 2004, prefectural labour relations commissions have also been conducting consultations and conciliation relating to individual labor disputes (the following is from *2010 Summary of the Total Number of Labor Disputes Handled Nationwide*, published by the CLRC on May 20, 2011).

The number of cases of conciliation undertaken by 44 prefectural governments in individual labor disputes was 423 in FY2010, and the resolution rate in the same fiscal year was 66.4%. Some variation can be seen by year in terms of the number of cases handled, but the resolution rate over the last seven years has been around 65%, and has been increasing over the last two or three years. With regard to the reasons for conciliation, there is a tendency for many of the cases to relate to "dismissal," "non-payment of wages," and "abuse or power-related harassment."

Moreover, the number of cases of consultations and advice carried out by 14 prefectural labour relations commissions has been increasing year-on-year over the last seven years, reaching 2,123 in FY2010. The reasons for consultations and advice are the same as the aforementioned reasons for conciliation.

2. Judicial system

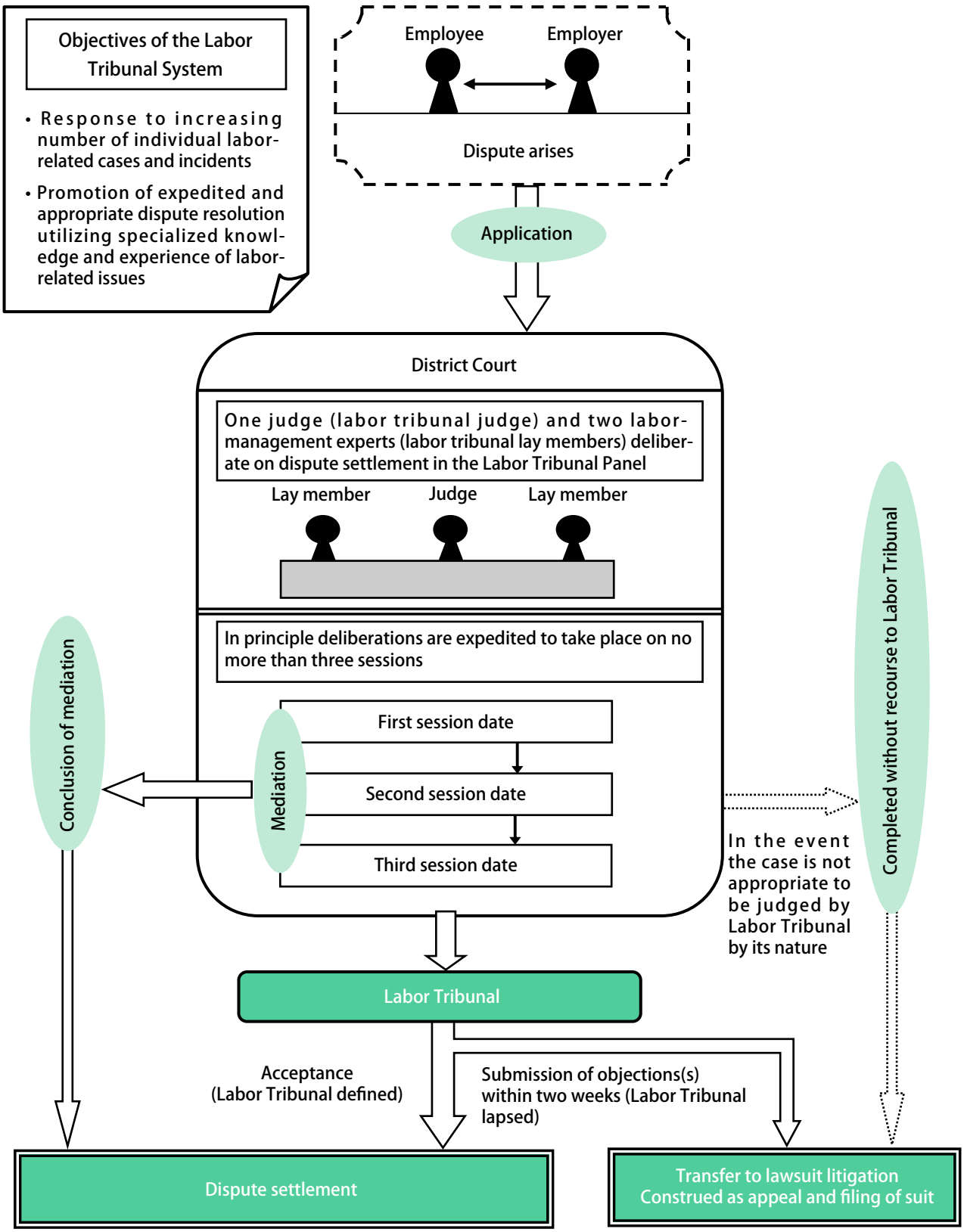
(1) Resolution system

Two methods of the judicial resolution of individual labor disputes are available: civil litigation and the labor tribunal system, which began operating in April 2006. As the former is conducted in accordance with the procedure for civil actions, in the same way as other civil cases, it is the latter that is explained below.

To put it simply, the labor tribunal system is aimed at disputes concerning rights and obligations in individual contractual labor relations (individual civil disputes in labor relations) (Article 1); in contrast to ordinary civil litigation cases, procedures for dispute resolution take place at district courts (main branch) and are accelerated by a tribunal composed of a judge (labor tribunal judge) and persons involved in industrial relations who have expert knowledge and experience in this field (labor tribunal lay members) (Articles 7, 9 and 15). This tribunal panel attempts a resolution by mediation where possible (Labor Tribunal Ordinance Article 22), but if this ends in failure, then a ruling is handed down (Article 20. This takes place within three sessions, as a rule: Article 15, paragraph (2)). If there is any objection to a decision, the parties can make a submission to this effect (Article 21), in which situation, the case proceeds to become an ordinary civil lawsuit, with the institution of action deemed to have taken place from the date of the initial submission to the labor tribunal (Article 22, paragraph (1)) (see IV-20).

The following first of all provides an overview of civil litigation relating to labor relations and then looks at the labor tribunal system.

IV-20 Overview of the Labor Tribunal System



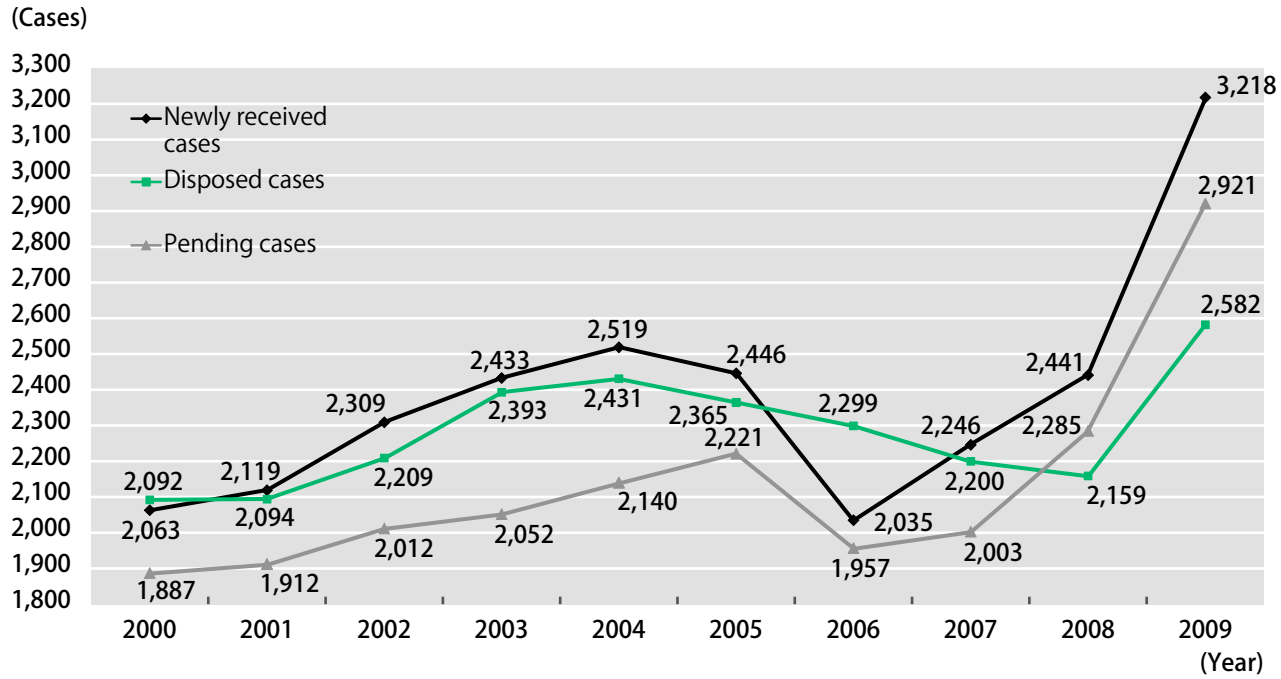
Source: Website of Prime Minister of Japan and His Cabinet

(2) Operational status of ordinary civil litigation concerning labor relations and trends relating to cases

Firstly, if we look at trends in changes over time, we can see that the number of new cases of ordinary civil litigation concerning labor relations that were received by district courts demonstrated a downward trend until 2006, but there has been an upturn over the last few years, with a major increase to approximately 3,200 cases up to 2009 (see IV-21).

The most recent statistical figure is for the number of new ordinary civil litigation cases concerning labor relations received by district courts in 2009, which was 3,218 (see IV-22). Of these, there were 3,068 cases in which the plaintiff was the employee and the defendant was the employer; if we look at a breakdown of these cases, we can see that the most common petition was for "wages, etc." at 1,633 cases, followed by 956 cases of petitions for "confirmation of the existence of an employment contract," which relate to resignation or dismissal, and 479 cases described as "other," which include cases of petitions for damages.

IV-21 Number of Newly Received, Disposed, and Pending Ordinary Civil Litigation Cases concerning Labor Relations (District Courts, 2000-2009)



Sources: Compiled by the author from General Secretariat of the Supreme Court, *2009 Overview of Civil and Administrative Labor Relations Cases, Hoso Jiho (Lawyers Association Journal), Vol.62, No.8, p.43 (2010)*

IV-22 Number of Newly Received Ordinary Civil Litigation Cases concerning Labor Relations by Party and Type of Claim (District Courts, 2003-2009)

Year	Newly received	Plaintiff: Employee Defendant: Employer				Plaintiff: Employee Defendant: Employer	Other
		Total	Confirmation of existence of employment contract, etc.	Wage, etc.	Other	Confirmation of absence of employment contract, compensation, etc.	Confirmation of invalidation of resolution of exculsion etc.
2003	2,433	2,319	530	1,473	316	103	11
2004	2,519	2,309	573	1,427	309	186	24
2005	2,446	2,303	507	1,437	359	135	8
2006	2,035	1,900	456	1,130	314	124	11
2007	2,246	2,105	537	1,246	322	121	20
2008	2,441	2,300	638	1,249	413	126	15
2009	3,218	3,068	956	1,633	479	138	12

Source: Compiled by the author from General Secretariat of the Supreme Court, *2007 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.60 No.8 p.50 (2008), and the same institution's *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.49 (2010)

On the other hand, the total number of cases handled at district courts that were disposed of in 2009 was 2,582 (see IV-23). Of these, whereas the number dealt with by means of a "judicial decision" was 914, the number dealt with by means of a "settlement" was 1,314, so we can see that the number of settlements was greater than the number of judicial decisions. This trend remains unchanged even when we look at the figures for at least the last five years.

Looking at the duration of deliberations in regard to the cases that were disposed of in 2009, the "average deliberation period" was 10.8 months, which was the shortest period for the past five years (see IV-24). The breakdown in descending order of proportion is 886 cases (34.3%) taking six months or less, 763 cases (29.6%) taking a year or less, and 754 cases (29.2%) taking two years or less, so we can see that approximately 93% of cases were dealt with within two years or less. In addition, we can say that this trend has, broadly speaking, not changed over the past five years.

(3) Operational status of the labor tribunal system and trends relating to cases

With regard to labor tribunals, the number of new cases filed at district courts in 2009 was 3,468, a figure that has increased considerably since the system began operating (see IV-25).

The breakdown of applications in 2009 can be broadly classified into "cases with non-pecuniary objectives," at 1,793 cases, and "cases with pecuniary objectives," at 1,675 cases, so there were over 100 cases more of the former type than of the latter. If we look at a more detailed breakdown, the most common of the former were "confirmation of status" (under employment contracts relating to retirements/ dismissals and personnel transfer cases) at 1,701 cases, followed by "wages and benefits," which fall into the latter category, at 1,059 cases. In addition, the wages and benefits category would seem to include cases involving petitions for payment for overtime hours worked and pay in lieu of notice of dismissal. Moreover, 411 of the pecuniary cases were classified as "others," which in many instances are likely to be claims for compensation for various reasons.

IV-23 Ordinary Civil Litigation Cases concerning Labor Relations by Party – Number of Cases Disposed of and Outstanding(District Courts, 2005-2009)

Year	Plaintiff	Disposed Cases							Outstanding
		Total	Judicial decision			Decision/ order	Settlement	Withdrawal/ other	
			Total	Petition accepted (including partial acceptance)	Petition dismissed with prejudice, petition dismissed without prejudice				
2005	Total	2,365	884	539	345	26	1,185	270	2,221
	Employee	2,170	819	498	321	22	1,090	239	2,104
	Employer	186	59	38	21	4	94	29	96
	Other	9	6	3	3	0	1	2	21
2006	Total	2,299	844	518	326	28	1,139	288	1,957
	Employee	2,168	792	487	305	26	1,089	261	1,836
	Employer	117	44	27	17	2	44	27	103
	Other	14	8	4	4	0	6	0	18
2007	Total	2,200	767	475	292	24	1,092	317	2,003
	Employee	2,044	698	437	261	19	1,043	284	1,897
	Employer	135	57	31	26	5	47	26	89
	Other	21	12	7	5	0	2	7	17
2008	Total	2,159	750	443	307	26	1,115	268	2,285
	Employee	2,025	710	420	290	24	1,061	230	2,172
	Employer	116	32	19	13	2	47	35	99
	Other	18	8	4	4	0	7	3	14
2009	Total	2,582	914	554	360	23	1,314	331	2,921
	Employee	2,430	856	522	334	22	1,248	304	2,810
	Employer	136	46	24	22	1	63	26	101
	Other	16	12	8	4	0	3	1	10

Source: General Secretariat of the Supreme Court, *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.50 (2010)

Notes: 1) Cases in which the plaintiff is the employee refer only to cases where the defendant in the case is the employer; cases in which both the plaintiff and the defendant are employees are included in "Other."

2) In this table, cases where the petition was dismissed with or without prejudice also include the number of cases of judgments for other reasons.

IV-24 Ordinary Civil Litigation Cases concerning Labor Relations: Number of Cases Disposed of by Deliberation Period – Average Deliberation Period (District Courts, 2005-2009)

Year	Number of cases disposed of	Within 6 months	Within a year	Within 2 years	Within 3 years	Within 5 years	More than 5 years	Average deliberation period (months)
2005	2,365	786 (33.2)	699 (29.6)	708 (29.9)	113 (4.8)	52 (2.2)	7 (0.3)	11.2
2006	2,299	709 (30.8)	685 (29.8)	680 (29.6)	157 (6.8)	55 (2.4)	13 (0.6)	12.0
2007	2,200	701 (31.9)	639 (29.0)	649 (29.5)	156 (7.1)	52 (2.4)	3 (0.1)	11.7
2008	2,159	671 (31.1)	633 (29.3)	673 (31.2)	135 (6.3)	41 (1.9)	6 (0.3)	11.6
2009	2,582	886 (34.3)	763 (29.6)	754 (29.2)	144 (5.6)	33 (1.3)	2 (0.1)	10.8

Source: General Secretariat of the Supreme Court, *2009 Overview of Civil and Administrative Labor Relations Cases,* Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.51 (2010)

Note: Figures in brackets denote percentages of the total, with figures rounded to one decimal place. Consequently, the totals may not necessarily add up to 100.

IV-25 Number of Newly Received Labor Tribunal Cases by Type of Case (District Courts, 2006-2009)

Year	Newly received	Non-pecuniary			Pecuniary			
			Confirmation of status	Other		Wages and benefits	Retirement allowances	Other
2006	877	463	418	45	414	266	66	82
2007	1,494	780	719	61	714	441	126	147
2008	2,052	1,078	1,022	56	974	620	114	240
2009	3,468	1,793	1,701	92	1,675	1,059	205	411

Sources: Compiled by the author from General Secretariat of the Supreme Court, *2007 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.60 No.8 p.56 (2008), and the same institution's *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.55 (2010)

Note: The figures for 2006 indicate the number of disposed cases from April to December of that year.

The number of "cases disposed of" in 2009 was 3,226, approximately 70% (2,200 cases, or 68.2%) of which were concluded by means of "successful mediation" (see IV-26). In addition, including mediation, the trends in the reasons for conclusion have remained the same since the system began operating. The next most common reason for conclusion after "successful mediation" was "labor tribunal judgment," at 600 cases (18.6%). However, of the cases in which a labor tribunal judgment was made, what catches the eye is the fact that objections were filed in 388 cases, or more than 60% (64.7% of 18.6%). (In addition, the "Article 24 conclusion" referred to in IV-26 is a situation in which the members of the labor tribunal conclude procedures on the basis of their own authority in light of the nature of the case, based on Article 24 of the Labor Tribunal Act.)

If we look at the "average deliberation period" in regard to the cases that were disposed of in 2009, more than around 70% of all cases were concluded in three months or less; with regard to the detailed breakdown, 3.7% (119 cases) were dealt within a month or less, 34.0% (1,096 cases) were dealt within two months or less, 36.3% (1,170 cases) were dealt within three months or less, and 25.6% (827 cases) were dealt within six months or less (see IV-27). Moreover, the average deliberation period in 2009 was 2.5 months; there has been no change in this trend since the system first began operating and, compared with the situation concerning ordinary civil litigation, which we looked at previously, we can say that cases are resolved fairly swiftly under the labor tribunal system.

Looking at the situation by the number of tribunal sessions held in 2009, approximately 97% of "cases disposed of" were concluded within three sessions; with regard to the breakdown, 6.2% (199 cases) involved "no sessions," 21.3% (687 cases) involved "one session," 36.2% (1,168 cases) involved "two sessions," and 33.4% (1,079 cases) involved "three sessions," so we can say that the system is being operated in line with the principles of the Labor Tribunal Act (see IV-28).

IV-26 Number of Disposed Labor Tribunal Cases by Reason for Conclusion (District Courts, 2006-2009)

(Cases, figures in brackets are percentages)

Year	Number of cases disposed of	Labor tribunal judgment		Successful mediation	Article 24 conclusion	Withdrawn	Rejected or transferred, etc.
			Objection filed				
2006	606	107 (17.7)	74 [69.2]	427 (70.5)	19 (3.1)	50 (8.3)	3 (0.5)
2007	1,450	306 (21.1)	178 [58.2]	997 (68.8)	47 (3.2)	93 (6.4)	7 (0.5)
2008	1,911	347 (18.2)	228 [65.7]	1,327 (69.4)	59 (3.1)	169 (8.8)	9 (0.5)
2009	3,226	600 (18.6)	388 [64.7]	2,200 (68.2)	107 (3.3)	294 (9.1)	25 (0.8)

Sources: Compiled by the author from General Secretariat of the Supreme Court, *2007 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.60 No.8 p.56 (2008), and the same institution's *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.55 (2010)

Note: The figures for 2006 indicate the number of disposed cases from April to December of that year. Figures in parentheses or angle brackets indicate percentages. Proportions given in the "objection filed" column indicate the proportion of cases for which objections were filed to the number of cases concluded by labor tribunal.

IV-27 Labor Tribunal Cases: Number of Cases Disposed of by Deliberation Period – Average Deliberation Period (District Courts, 2006-2009)

(Cases, figures in brackets are percentages)

Year	Number of cases disposed of	Within a month	Within 2 months	Within 3 months	Within 6 months	Within 1 year	Average deliberation period (months)
2006	606	36 (5.9)	192 (31.7)	207 (34.2)	171 (28.2)	0	2.4
2007	1,450	59 (4.1)	428 (29.5)	545 (37.6)	408 (28.1)	10 (0.7)	2.5
2008	1,911	64 (3.3)	598 (31.3)	718 (37.6)	517 (27.1)	14 (0.7)	2.5
2009	3,226	119 (3.7)	1,096 (34.0)	1,170 (36.3)	827 (25.6)	14 (0.4)	2.5

Source: General Secretariat of the Supreme Court, *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.56 (2010)

IV-28 Labor Tribunal Cases: By Number of Tribunal Sessions – Number of Cases Disposed of (District Courts, 2006-2009)

(Cases, figures in brackets are percentages)

Year	Number of cases disposed of	No session	1 session	2 sessions	3 sessions	4 sessions	More than 5 sessions
2006	606	32 (5.3)	101 (16.7)	215 (35.5)	245 (40.4)	13 (2.1)	0
2007	1,450	67 (4.6)	235 (16.2)	542 (37.4)	563 (38.8)	42 (2.9)	1 (0.1)
2008	1,911	101 (5.3)	370 (19.4)	717 (37.5)	671 (35.1)	49 (2.6)	3 (0.2)
2009	3,226	199 (6.2)	687 (21.3)	1,168 (36.2)	1,079 (33.4)	87 (2.7)	6 (0.2)

Source: General Secretariat of the Supreme Court, *2009 Overview of Civil and Administrative Labor Relations Cases*, Hoso Jiho (Lawyers Association Journal) Vol.62 No.8 p.56 (2010)