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Reports of the Committee on Freedom of Association

344th Report of the Committee on Freedom of Association

CASE No. 2460

REPORT IN WHICH THE COMMITTEE REQUESTS
TO BE KEPT INFORMED OF DEVELOPMENTS

**Complaint against the Government of the United States
presented by**
— the United Electrical, Radio and Machine Workers of America (UE)
supported by
— Public Services International (PSI)

Allegations: The complainants allege that the legislation of North Carolina expressly prohibits the making of any collective agreement between cities, towns, municipalities or the State and any labour or trade union in the public sector, thus violating ILO principles on collective bargaining. They also allege that the Government violates ILO freedom of association principles by frustrating the very purpose of forming workers' organizations

940. The complaint is contained in a communication from the United Electrical, Radio and Machine Workers of America (UE) and UE Local 150, dated 7 December 2005 and 8 September 2006. In a communication dated 1 February 2006, PSI associated itself to the complaint.
941. The Government replied in communications dated 3 November 2006 and 25 January 2007.
942. The United States has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), nor the Labour Relations (Public Service) Convention, 1978 (No. 151).

A. The complainants' allegations

943. In its communication of 7 December 2005, the UE and UE Local 150 indicate that the UE is an independent, rank and file, national union representing approximately 30,000 workers with a variety of jobs in manufacturing, the public sector, and the private, non-profit sector. UE Local 150, a constituent unit of UE, represents many hard-working public servants across the State of North Carolina. The vast majority of UE Local 150 members are women and people of colour who toil in some of the most difficult, low-wage, public sector jobs in the State (janitors, refuse-disposal workers, housekeepers, groundskeepers, medical technicians, bus drivers and other vital municipal and state employees).
944. The complainants allege blatant violations of workers' right to collectively bargain in North Carolina and, as such, a failure by the United States to uphold its obligations arising from its membership in the ILO to protect the fundamental rights which are the subjects of Conventions Nos. 87, 98 and 151.

945. The complainants specify that the Committee is competent to review this complaint as the UE is a national workers' organization which has a direct interest in the matter and the violations alleged in this complaint directly infringe upon the fundamental rights of freedom of association and collective bargaining; as a member State, the United States has an obligation to enforce the core labour standards within its borders.
946. According to the complainants, North Carolina General Statute (NCGS) §95-98 declares any agreement or contract between the government of any city, town, county, other municipality or the State of North Carolina and "any labour union, trade union or labour organization, as bargaining agent for any public employees" to be illegal and null and void. This statute directly violates principles of international law guaranteeing the right to collective bargaining as embodied in Conventions Nos. 98 and 151, and consequently infringes upon the right to organize freely as embodied in Convention No. 87 by making the intended benefits of worker organization unattainable.
947. According to the complainants, the United States Government has failed to adequately protect workers' rights in North Carolina. Under the US Constitution, the US Congress clearly has the authority to regulate the relationship between states, as employers, and their employees. Indeed, beginning in 1997, some members of the US Congress introduced a bill that would guarantee collective bargaining rights for state and municipal public safety workers. However, to this date, Congress has failed to enact any law that would ensure that public sector workers in North Carolina can exercise their most basic human rights outlined in Conventions Nos. 87, 98 and 151. Like Congress, the federal courts have rejected workers' pleas to strike down NCGS §95-98. The United States Government's failure to prevent North Carolina and other states from violating public sector workers' basic rights embodied in the fundamental international principles of freedom of association and the right to negotiate through collective bargaining – rights which the United States is bound to protect regardless of whether it has ratified Convention Nos. 87 and 98 – dramatically impacts the lives and working conditions of workers represented by the UE.
948. In the first place, the complainants allege that the Government's failure to ensure compliance with the fundamental principles of freedom of association and the right to collectively bargain has resulted in grievous working conditions and promoted race and sex discrimination in the workplace. The failure to comply with Conventions Nos. 87, 98 and 151 has stripped public sector workers in North Carolina of their basic human rights of free association and has translated into miserable working conditions for many public sector workers in North Carolina, who report health and safety violations in their workplace, unconscionable wages, unreasonable and unsafe hours of work, extreme understaffing, unreasonable forced overtime, favouritism, and disrespectful treatment from superiors, amongst other complaints. All of these problems are compounded by inconsistent grievance procedures devoid of any notion of due process. Moreover, all of these complaints could be addressed through the collective bargaining process. However, the prohibition of collective bargaining agreements in North Carolina has prevented public sector workers from experiencing the basic dignity associated with having a say in establishing one's conditions of work, as well as the increased authority derived from speaking with a collective voice. But perhaps the most disturbing result of North Carolina's long-term ban on collective bargaining in the public sector is the unmistakable prevalence of widespread race and sex discrimination. Employees complain of unequal treatment for racial minorities and women in hiring, promotions, discharges and wage rates. The State's own comprehensive reports determined that these complaints are accurate. For example, African Americans are disproportionately under-represented in the state government workforce, especially in management and professional positions. Not surprisingly, African Americans and women are over-represented in the lowest paying jobs

and have largely been unable to break through the State's "glass ceiling". Public sector employees also report widespread racial and sexual harassment.

949. In essence, according to the complainants, NCGS §95-98 acts as a state-mandated impediment to eliminating race and sex discrimination. Collective bargaining would provide public sector employees numerous tools to counter the continuing racism and sexism in their workplaces. From establishing truly objective criteria for employment decisions to developing workable and anti-harassment mechanisms, the collective bargaining process would offer public sector workers a voice in changing the current system to eradicate the widespread institutional racism and sexism.
950. In the second place, the complainants allege that the North Carolina law violates principles embodied in ILO Conventions Nos. 98 and 151, principles concerning fundamental rights which are binding on member States regardless of whether the Conventions were ratified. In contrast to encouragement and promotion of collective bargaining, as provided in Conventions Nos. 98 and 151, North Carolina's statutory prohibition of public sector collective bargaining wholly precludes any "negotiation of terms and conditions of employment". Moreover, the prohibition applies to all employees in the public sector, thus going beyond the Conventions' allowable exceptions. North Carolina's sweeping prohibition of public sector collective bargaining agreements constitutes a blatant and egregious violation of Conventions Nos. 98 and 151.
951. Thirdly, the complainants consider that the North Carolina statutory prohibition of collective bargaining agreements violates principles of international law embodied in Convention No. 87 by frustrating the very purpose of forming workers' organizations. When workers lose the right to collectively negotiate and form agreements regarding terms of employment with their employers, they are denied the intended benefit of employee unions. Hence, their right to freedom of association becomes a hollow right. The undeniable interdependence of the right of freedom of association and the right to engage in collective bargaining was recognized in the preliminary work for the adoption of Convention No. 87. The report from the 30th Session of the International Labour Conference indicates that "one of the main objects of the guarantee of freedom of association" is to foster favourable conditions for "freely concluded collective agreements" to emerge [Report VII, International Labour Conference, 30th Session, Geneva, 1947 p. 52]. Likewise, when Human Rights Watch assessed the situation of workers' rights in the United States, it recognized that effective protection of the right to freedom of association was impossible when collective bargaining is prohibited. In its report, *Unfair advantage: Workers' freedom of association in the United States under international human rights standards*, Human Rights Watch made note that public sector workers generally enjoyed protection against dismissal for associational activities. The report stressed, however, that "the problem for public workers in states where collective bargaining is prohibited is ... the futility of an effort to organize". Thus, while public sector workers in North Carolina have technically been free to join labour organizations since 1969, the prohibition of collective bargaining agreements has largely undermined workers' main objective in exercising their freedom to associate in the workplace – collective bargaining. As such, the North Carolina prohibition of collective bargaining violates workers' rights under Convention No. 87.
952. Fourthly, the complainants allege that the North Carolina statutory prohibition of collective bargaining agreements conflicts with explicit recommendations made by the CFA in respect of the relevant Conventions. Making extensive reference to the Committee's case law, the complainants noted that NCGS §95-98, directly contravenes the basic principles of Convention No. 98. Rather than utilize the machinery of the state to encourage the use of collective bargaining agreements as Convention No. 98 mandates, North Carolina has used its machinery to prohibit the use of collective bargaining agreements.

953. Fifthly, the complainants allege that the federal Government of the United States has refused to exercise its authority over the states to ensure that North Carolina law comports to the core labour standards. Although the United States has not ratified Conventions Nos. 87, 98 or 151, it is obligated to “respect, to promote and to realize, in good faith and in accordance with the Constitution” the principles relating to the fundamental rights of freedom of association and the right to collective bargaining simply from its membership of the International Labour Organization by conformity with the Declaration on Fundamental Principles and Rights at Work. By refusing to ensure that North Carolina law complies with basic international standards, the United States Government has failed to fulfil this obligation. United States federal courts have failed to protect workers’ rights and have upheld NCGS §95-98. Domestic courts in the United States have not yet ruled on the validity of the Statute in the context of its compliance with principles of international law and treaties to which the United States is a party.
954. The complainants add in this respect that in *Atkins v. City of Charlotte*, 296 F.Supp. 1068 (WDNC 1969) workers employed by the City of Charlotte, North Carolina challenged the constitutionality of NCGS §§95-97, 95-98 and 95-99. Section 95-97 prohibited government employees from becoming members of labour unions. Section 95-99 addressed the penalty for violations of the statutes. The District Court for the Western District of North Carolina declared that federal courts have authority to review state statutes addressing public employees’ rights to unionize and engage in collective bargaining. The court struck down §§95-97 and 95-99. However, the court upheld §95-98 reasoning that states are free to refuse to enter into collective bargaining agreements and, by extension, they are entitled to statutorily forbid such agreements. In 1974, the US District Court for the Middle District of North Carolina (MDNC) also considered a challenge to §95-98 by a public sector worker. The case, *Winsto-Salem/Forsyth County Unit of North Carolina Association of Educators v. Phillips*, 381 F.Supp 644 (MDNC 1974), presented the issue of whether the prohibition against collective bargaining agreements constituted a violation of the rights of freedom of association guaranteed by the First Amendment to the US Constitution. The court held that despite any detrimental effects the statute might have on workers’ ability to associate, the Government is under no constitutional obligation to talk to or contract with any organization. In the *Atkins* and *Phillips* decisions, the United States Government gave state governments free reign to ban collective bargaining agreements. By failing to take any legislative regulatory, or judicial actions against North Carolina Statute §95-98, the United States Government is not merely acknowledging the state’s right, as an employer, to reject proposals by employee unions for an agreement; it is stamping its approval of state laws which outlaw the very agreements that, as a member State of the ILO, it has an affirmative obligation to encourage. The United States Government is hiding behind its federal system in an attempt to shirk its obligations that arise from membership in the ILO.
955. The complainant adds that the decision by the US Supreme Court in *Garcia*, 469 US528,555-56 (1985) overruling a contrary decision in *National League of Cities v. Usery* 426 US833 (1976) established that the US Congress has the constitutional authority to impose minimum wage and overtime protections for employees of the states. The CFA noted this in Case No. 1557, wherein it was observed that *Garcia* “supports the notion that the federal Government may intervene in matters concerning state and local government employees” [291st Report 1993, para. 273]. In the abovementioned case, the CFA would not take a position as to whether Congress had the constitutional power to impose regulations on states concerning protections for the right to collectively bargain. The CFA’s refusal to decide issues of US constitutional law did not deter it from its mission to determine whether the principles of freedom of association were complied with, in law and fact. The CFA concluded that except for “public servants engaged in the administration of

the State”, no employee, although employed by the government, may be denied the guarantees of Convention No. 98 [op. cit., para. 281].

956. In conclusion, the complainants state that by permitting the State of North Carolina to ban public sector workers from entering collective bargaining agreements, the Government of the United States has failed to uphold its most basic obligations as a member of the ILO. The refusal to respect North Carolina public sector workers’ right to bargain collectively and freedom of association has resulted in serious workplace abuses, including pervasive discrimination. They therefore requested that the Committee on Freedom of Association utilize all available means to ensure that the United States Government takes immediate and effective action to comply with Conventions Nos. 87, 98 and 151, so that public sector workers in North Carolina can exercise their rights of free association and collective bargaining.
957. In a communication of 8 September 2006, the complainants provided a report compiled by the International Commission for Labor Rights (ICLR) entitled “The Denial of Public Sector Bargaining Rights in the State of North Carolina (US): Assessment and Report” (June 2006). The report reflected the ICLR’s analysis of North Carolina’s obligations relating to public sector workers’ collective bargaining rights under domestic and international law. In preparing the report, the ICLR sent a delegation of international labour experts to North Carolina to engage in extensive fact finding. The complainants submitted the report as additional evidence in support of their complaint. According to the complainants, the report made findings relative to significant violations of internationally recognized labour standards in the public sector in North Carolina, which were strongly correlated to the absence of collective bargaining rights including race and gender-based discrimination in hiring, promotion, pay, the exercise of discipline and termination; systematic breaches of occupational health and safety norms; and arbitrary personnel policies. It made recommendations to the federal Government for the immediate ratification of Conventions Nos. 87 and 98, to the State of North Carolina for the repeal of NCGS §95-98 and to state subdivisions for the institution of “meet and confer” measures that would at a minimum promote negotiation with workers, even if the outcomes were not enforceable, in recognition of the extent to which state subdivisions have their hands tied by the provisions of NCGS §95-98.

B. The Government’s reply

958. In a communication dated 3 November 2006, the Government indicates that the United States respects, promotes and realizes the fundamental principles and rights at work that are embodied in the ILO’s Constitution, and is in full compliance with any obligations it may have by virtue of membership in the ILO. Public sector workers in North Carolina have the right under the US Constitution to join labour unions or employee associations, if they choose, and they have the right to participate in the democratic processes under which the terms and conditions of their employment are set. Moreover, public sector workers in North Carolina are covered – as are public sector workers throughout the United States – by a safety net of federal and state laws and practices that secure their right to be free from workplace discrimination, unsafe and unhealthful workplaces, and substandard pay and conditions of employment.
959. The United States has not ratified ILO Conventions Nos. 87, 98 and 151 and therefore is not bound by their terms. The Committee on Freedom of Association acknowledged this fundamental principle as recently as 2003 in Case No. 2227, paragraph 599. (The United States has no international law obligations pursuant to Conventions it does not ratify, including Conventions Nos. 87 and 98.) In a similar vein, and contrary to the complainants’ assertion, the United States has no formal obligations under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. The ILO

Declaration is a non-binding statement of principles, is not a treaty, and gives rise to no legal obligations [see Committee on Freedom of Association Case No. 2227, para. 599]. The United States Government, however, has submitted annual reports under the follow-up procedures established by the ILO Declaration that demonstrate that it respects, promotes and realizes the fundamental principles and rights at work embodied in the ILO's Constitution.

960. In the first place, the Government emphasizes that public employees in North Carolina have the right to form and join unions. Public sector employees perform a wide variety of jobs: blue-collar and white-collar jobs, jobs in law enforcement and defence, technical and professional jobs and many others. What sets public sector employees apart from their private sector counterparts is, of course, the special character of their employer. With respect to public employment, the employer is the whole people, who speak by means of the laws that are enacted by their representatives. Despite the special nature of public sector workers in the United States, individuals employed at all levels of the Government have the right to form and join unions because the First Amendment to the US Constitution guarantees the associational rights of all persons. This fundamental principle is well settled in US jurisprudence and has specifically been recognized in North Carolina, as the complainants concede. Thus, in *Atkins v. City of Charlotte*, a three-judge panel of federal district court judges held that the US Constitution's guarantee of freedom of association protects the rights of North Carolina public employees to form and join labour unions. Because the US Constitution's provisions supersede conflicting state laws by virtue of the supremacy clause of article VI, North Carolina is not free to abridge this fundamental right by enacting contrary state legislation. As a practical matter, this means that the North Carolina law cannot and does not impede the rights of state and local government employees to form and join unions or employee associations. Thus, US law and practice with respect to North Carolina is completely consistent with the principles underlying Convention No. 87.

961. The court in *Atkins* noted, however, that there is nothing in the US Constitution, including the First Amendment's right to associate freely, that compels a party to enter into a contract with any other party. As a result, the court upheld the validity of North Carolina General Statute (NCGS) §95-98, saying that the State of North Carolina was free to decide through the people's democratically elected representatives whether to enter into such agreements. Another panel of federal district court judges further explained that the North Carolina legislature's policy choice forbidding public sector collective bargaining agreements was an entirely appropriate way of balancing the citizenry's competing interests. See *Winston-Salem/Forsyth County Unit, NC Association of Educators v. Phillips*, 381 F.Supp. 644 (MDNC 1974). In the court's words:

[T]o the extent that the public employees gain power through recognition and collective bargaining, other interest groups with a right to a voice in the running of the government may be left out of vital political decisions. Thus, the granting of collective bargaining rights to public employees involves important matters fundamental to our democratic form of government. The setting of goals and making policy decisions are rights inuring to each citizen. All citizens have the right to associate in groups in order to advocate their special interests to the government. It is something entirely different to grant any one interest group special status and access to the decision-making process. [381 F.Supp. p. 647.]

962. In the second place, the Government notes that public employee unions in North Carolina may address, through the legislative process, the issues that collective bargaining typically addresses. Although public employee unions in North Carolina may not enter into contracts with state agencies, they may address the issues that collective bargaining typically addresses through the legislative process. While the *Phillips* court permitted public-sector collective bargaining issues in North Carolina to be resolved in the legislative

arena, a federal appeals court made it clear that public sector employees have a right under the US Constitution to participate through their unions in the law-making process [see *Hickory Fire Fighters Association v. City of Hickory*, 656 F.2d 917 (fourth Cir. 1981)]. More specifically, the court held that the prohibition on collective bargaining in NCGS §95-98 does not prevent North Carolina's public sector employees, unions, or employee associations from engaging in collective activities to address, through the legislative process, the issues that collective bargaining typically addresses, namely compensation, benefits, conditions and other incidents of employment.

963. According to the Government, the existence and activities of public employee organizations in North Carolina support the Government's position and help rebut the charge that it has somehow violated international labour standards and "stripped public sector workers in North Carolina of the basic human rights of free association" as the complainants contend. Public sector employees and their representatives, in fact, are actively engaged in the democratic processes through which the terms and conditions of their work are established. UE Local 150's web site, for example, indicates that it represents public employees throughout the state, that it builds chapters in each workplace, that it brings workers together to discuss problems and solutions, and that it charges dues to its members. The union also has taken credit for securing the largest pay increase in 15 years for state employees "because of our intense lobbying efforts with the legislature", and it has taken credit for raising concerns through "meet and confer" forums with public employers, for obtaining a fairer grievance procedure for state employees, and for confirming state employees' right to organize.
964. Local 150 is not the only North Carolina "public employees' organization", as that term is defined in Convention No. 151. The State Employees Association of North Carolina (SEANC) is, according to its web site, "a unified body of 55,000 active and retired state employees" whose priority is to protect and enhance state employees' rights and benefits. It claims to have achieved many notable successes in the legislative field, including pay rises, a comprehensive compensation system, an accelerated pay plan for low-paid workers, health care and retirement benefits, and layoff protections, among other things. In addition, SEANC lists repeal of §95-98 among its top ten policy objectives for 2006.¹ Finally, SEANC entered into a partnership with the Service Employees International Union in 2004 to increase its effectiveness and political power. According to the SEIU, it agreed to the partnership in order to learn how the SEANC had built "such a large, successful public employee organization" so that "its leaders can apply what they learn to build similarly large and successful organizations of public employees in other [similar states]".
965. The Government adds that public sector employment in the United States takes place at the federal, state and local levels, with thousands of discrete governmental units administering or influencing public sector labour relations. The roots of this decentralized and diverse system are embedded in the US Constitution, which established a federal system of government under which the national Government exercises only those powers the Constitution gives it; all other powers are reserved to the 50 states or to the people themselves. The states, in turn, may delegate their powers to local units of government, such as cities, counties or municipalities. The regulation of labour relations in the United States respects the constitutionally mandated distribution of power between the national and state governments. When Congress in 1935 enacted the country's primary collective

¹ Legislation has been introduced in each of the last two North Carolina legislatures that would have, if enacted, permitted state and local governmental units to enter into collective bargaining agreements with labour organizations that represent certain public safety officers. See H.B.929, 2005 Session (NC 2005); H.B.1095, 2003 Session (NC 2003). Neither of these bills was enacted into law.

bargaining law, the National Labor Relations Act, it specifically excluded state and local government employers from the law's scope, thereby deferring to principles of federalism [see 29 USC §152(2)]. Since that time, legislation occasionally has been introduced to allow federal oversight of collective bargaining at the state level, but it has never enjoyed majority support in either house of Congress and has not been enacted into law, in part because questions remain about the propriety of the federal Government intruding into the authority of state governments to enter into their own contracts. Respecting the states' autonomy to develop labour laws and policies for their own employees, the federal Government nevertheless actively encourages and promotes sound collective bargaining practices at both the federal and state levels. regardless of the level, though, public sector union membership in the United States is flourishing. In fact, public sector employees are far more likely to join unions than are private sector employees. The Department of Labor's Bureau of Labor Statistics estimate that of the country's 15.7 million wage and salary employees who were union members in 2005, 7.4 million worked for some level of government, accounting for 36.5 per cent of the public sector workforce. In the private sector, 7.8 per cent of the workforce is unionized.

966. At the forefront of the federal Government's efforts to encourage and promote sound collective bargaining practices is the Federal Mediation and Conciliation Service (FMCS). Created in 1947 when Congress enacted the Labor-Management Relations Act, the FMCS is charged with promoting sound, stable relations through mediation and conflict resolution services [see 29 USC §172]. To accomplish its mission, the FMCS makes available a number of services for use in the public sector at both the federal and state levels. For example, the FMCS helps resolve disputes in the federal, state and local sectors by offering several types of mediation services, including collective bargaining mediation. These services include making FMCS mediators available to the parties directly, designing methods and strategies for improving conflict resolution, and providing training through its Institute for Conflict Management. In 1978, Congress expanded the FMCS's mission by directing it to encourage and support joint labour-management committees that would, among other things, involve workers in decisions affecting their jobs, including improving communications on subjects of mutual interest and concern [see 29 USC §175a(a)(1)]. Congress funds this initiative through annual appropriations, and the FMCS, in turn, distributes grants to committees that are developing innovative joint approaches to workplace problems. During the most recent fiscal year, for example, the FMCS distributed grants to committees in Ohio and California that are addressing public sector health-care benefits issues, and to a school system in Florida that is using a labour-management partnership to improve school performance.
967. The Government adds that the North Carolina law, NCGS §95-98, does not, as the complainants suggest, open the gates for discrimination, unsafe or unhealthful work, or substandard pay because the US Constitution, as well as federal and state laws, prohibit such practices and provide meaningful remedies for aggrieved persons and their representatives. The US Constitution's equal protection clause of the Fourteenth Amendment prohibits governments from treating people differently on the basis of characteristics, such as race or sex, for which no distinction can be legally justified. In a similar way, §1981(a) of the Civil Rights Act of 1866, 42 USC §1981, guarantees that all persons "shall have the same right in every State and Territory ... to make and enforce contracts ... as is enjoyed by white citizens". Section 1983 of the Civil Rights Act of 1871 gives teeth to these guarantees by providing that a public official who acts under colour of law to deprive an individual of "any rights, privileges or immunities secured by the Constitution and laws", shall be legally liable to the injured party [42 USC §1983]. Another important federal anti-discrimination law, Title VII of the Civil Rights Act of 1964, makes it unlawful for state or local government employers, among others, to

discriminate in any aspect of employment with respect to race, colour, religion, sex or national origin [see 42 USC §2000e-2(a)].

- 968.** Federal law specifically prohibits discrimination in programmes – including state and local programmes – that receive federal funding. For example, Title VI of the Civil Rights Act, 42 USC §2000d, prohibits discrimination on the basis of race, colour, or national origin in federally assisted programmes or activities in general. Similarly, Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, prohibits discrimination based on sex in the administration of education programmes at institutions that receive federal funding, thus covering employees at most public schools and universities. In addition, the Workforce Investment Act of 1998 prohibits discrimination in federally funded job training programmes and activities on the basis of race, colour, religion, sex, national origin, age, disability or political affiliation or belief [see 29 USC. §2938(a)(2)]. The federal Government, as the provider of funds, has the authority to enforce these laws by investigating complaints and seeking appropriate relief through litigation, if necessary. Individuals also retain the right to file their own private lawsuits to redress acts of discrimination in such programmes. Moreover, the Employment Litigation Section of the US Department of Justice's Civil Rights Division enforces important provisions of federal law that prohibit employment discrimination by state and local government employers. It does so by filing suit in cases in which government employers have engaged in a pattern of practices of denying employment or promotional opportunities to a class of individuals, or by filing suit in cases involving individual allegations of discrimination that are referred to the Justice Department by the US Equal Employment Opportunity Commission after an investigation. The federal Government, through the Equal Employment Opportunity Commission, also issues guidelines to help state and local government employers, among others, comply with federal anti-discrimination laws. Before publishing such guidelines in the US Code of Federal Regulations, the Commission seeks comments from interested parties, including public sector workers and labour unions. The Commission also has long encouraged employers, unions and others to express their views on important issues through meetings, telephone calls or correspondence with Commission officials and employees. For example, it met several years ago with more than 18,000 individuals and groups pursuant to a presidential directive, in order to obtain feedback on how the agency was implementing its various responsibilities.
- 969.** North Carolina law and practice are consistent with federal protection against employment discrimination. The North Carolina Constitution, for example, provides that no person shall "be subjected to discrimination by the State because of race, colour, religion or national origin" (article I, §19). State law makes this point even clearer with respect to public employment by providing that all state departments, agencies and political subdivisions are required to "give equal opportunity for employment and compensation, without regard to race, religion colour, creed, national origin, sex, age or handicapping condition" [NCGS §126-16]; they also are prohibited from retaliating against any employee who has alleged such discrimination [NCGS §126-17]. North Carolina state courts are empowered to compel enforcement of the non-discrimination provisions of the State's Constitution and laws [see, e.g., NCGS §7A-245]. In addition to pursuing federal and state remedies for discrimination noted above, public sector employees in North Carolina may pursue a state or local grievance procedure, an alternative dispute resolution procedure, or they may appeal directly to the State Personnel Commission for relief [NCGS §126-34]. On a broader level, the State Personnel Commission is required to submit an annual report to the legislature that includes information concerning workforce demographics as well as the status of each government unit's state-mandated "Equal Opportunity Plan", which, by law, must include "goals and programmes that provide positive measures to assure equitable and fair representation of North Carolina's citizens" [NCGS §126-19].

970. Although the complainants cite two reports from the Office of State Personnel as evidence of state mechanisms for ensuring equal opportunity, the Government believes that precisely the opposite is true: the reports brought to light – as they were intended to do – important information on workforce demographics and trends so that officials could make informed decisions about how the state human resource programmes could be improved. Contrary to the complainants' allegation that the State's reports confirmed the accuracy of the allegations of discrimination, the State quite carefully indicated that it had *not* drawn any conclusions about the causes of the demographics or trends it identified.
971. With respect to employee pay, federal law prohibits unequal or substandard pay and provides appropriate means of redress for individuals and their representatives. For example, the Equal Pay Act, 29 USC §206(d), requires employers to pay equal wages to men and women who perform equal work that requires equal skill, effort and responsibility and is performed under similar working conditions. Similarly, the Fair Labor Standards Act, 29 USC §201, assures that employee pay meets certain minimum wage and overtime national standards. The minimum wage is currently set at \$5.15 per hour for all hours worked, and overtime pay is set at 150 per cent of the regular rate of pay for all hours worked in a workweek that exceed 40 [see 29 USC §206 (minimum wage); 29 USC §207 (overtime)]. The Equal Pay Act and the Fair Labor Standards Act each cover state and local government employees, among others, and each authorizes the federal Government to seek appropriate relief in court on behalf of individual employees [see 29 USC §203(e); 29 USC §216(c)].
972. At the state level, North Carolina has established, by law, the policy that compensation of state employees is to be sufficient to encourage excellence and maintain competitiveness in the labour markets [NCGS §126-7(a)]. To that end, the State has adopted a "comprehensive compensation system" that includes provisions for annual salary increases, cost-of-living raises, and performance bonuses [NCGS §126-7(b)], which are to be distributed fairly [NCGS §126-7(c)(7)]. To assure proper oversight of the system, the State Personnel Director reports annually to the State Personnel Commission, the Governor and the legislature; the State Personnel Director also recommends to the legislature, for its approval, sanctions against deficient state departments, agencies and institutions [NCGS §126-7(c)(9)].
973. Finally, federal and state efforts secure the right of North Carolina's public sector workers to safe and healthy worksites. The federal Occupational Safety and Health Act attempts "to assure so far as possible every working man and woman in the nation safe and healthful working conditions" by, among other things, encouraging states to develop plans for assuring that workplaces in the state are safe and healthful [29 USC §651(b); 29 USC §651(b)(11)]. Such plans, when submitted to the federal Occupational Safety and Health Administration, must contain "satisfactory assurances that such State will ... establish and maintain an effective and comprehensive occupational safety and health programme applicable to all employees of public agencies of the State and its political subdivisions" [29 USC §667(c)(6)].
974. To obtain federal approval of its plan, the State's programme for state and local government employees must have, among other things, standards that are at least as effective as the standards that apply to private employers [29 CFR §1952.11(b)(3)]. The programme also must contain provisions requiring periodic and complaint-driven workplace inspections, notification to employees of their rights, protections against retaliation for exercising statutory rights, access to information on workplace exposure to toxic materials or harmful physical agents and procedures for restraining or eliminating imminent danger [29 CFR §1952.11(b)(3)].

975. The State of North Carolina submitted and obtained approval of its plan for enforcing state workplace safety and health standards [see 29 CFR §1952.154 (approval effective 10 December 1996)]. Before the US Department of Labor's Assistant Secretary for Occupational Safety and Health approved North Carolina's plan, he evaluated actual operations for at least one year and solicited comments from the public; only then did he determine that the state programme is "at least as effective as the Federal programme in providing safe and healthful employment and places of employment" and approve the plan [29 CFR §1952.154(a)].
976. The State's plan, with certain exceptions not relevant to this case, covers all activities of employers and all places of employment in North Carolina. To ensure that its own workers enjoy safe and healthful working conditions, the State requires its agencies to develop written safety and health programmes, establish education and training programmes and include employees on safety and health committees; the State also encourages employees to raise safety and health complaints and it investigates complaints and accidents.
977. In conclusion, the Government states that it remains firmly committed to the principles and rights set forth in the ILO Constitution and the Declaration of Philadelphia. While the people of North Carolina, through their elected representatives, have decided that their state and local governments may not enter into collective bargaining agreements, North Carolina's public employees and their unions retain the right of freedom of association and the right to participate in democratic processes at the local, state and federal levels by engaging their governments in free and open discussions about public sector work-life issues and about collective bargaining itself. Thus, there is no ground upon which to question the Government's commitment to the fundamental principles upon which ILO membership is based.
978. In a communication dated 25 January 2007, the Government adds supplemental observations concerning the report by the International Commission for Labour Rights (ICLR) that the complainants submitted as additional evidence in support of their complaint in their communication of 8 September 2006. The Government stated that the ICLR report repeated issues raised in the complainants' original communication; the Government had already addressed these issues in its original reply. The Government adds that it takes very seriously allegations of all workplace abuses, including those raised by the ICLR in its report, namely, allegations of discrimination on the basis of race or sex, allegations of unsafe or unhealthy workplace conditions and allegations that pay does not meet certain minimum standards. Although certain allegations in the unsworn statements that the ICLR provided may appear to raise serious issues, US law is designed to determine whether, in fact, such allegations are true and to provide redress in appropriate cases. Neither the ICLR nor the complainants have credibly shown that legal redress was not available. In light of the comprehensive system for protecting workplace rights that the Government outlined in its original observations – a system whose processes and remedies the complainants have not shown to be unavailable or without substance – the Committee on Freedom of Association should not give any weight to statements suggesting that additional processes or remedies are necessary.

C. The Committee's conclusions

979. *The Committee notes that the present case concerns allegations that the legislation of North Carolina expressly prohibits the making of any collective agreement between cities, towns, municipalities or the state and any labour or trade union in the public sector, thus violating ILO principles on collective bargaining. It is also alleged that the Government violates ILO freedom of association principles by frustrating the very purpose of forming workers' organizations.*

980. *The Committee observes that the North Carolina General Statute (NCGS) §95-98 declares any agreement or contract between the government of any city, town, county, or other municipality, or the State of North Carolina and "any labour union, trade union or labour organization, as bargaining agent for any public employees" to be illegal and null and void. According to the complainants, this provision violates the principles embodied in Conventions Nos. 98 and 151 relative to the right to engage in collective bargaining, as well as freedom of association principles embodied in Convention No. 87, by making the intended benefits of worker organization unattainable; the federal Government has violated the above principles by failing to enact any law that would ensure that public sector workers in that State can exercise their rights to organize with a view to engaging in collective bargaining.*
981. *The Committee notes that according to the complainants, the failure to ensure compliance with freedom of association principles in North Carolina has resulted in grievous working conditions for many public sector workers who report health and safety violations in their workplace, unconscionable wages, unreasonable and unsafe hours of work, extreme under-staffing, unreasonable forced overtime, favouritism, and disrespectful treatment from superiors, as well as inconsistent grievance procedures devoid of any notion of due process. All these problems could have been addressed through the collective bargaining process. Moreover, according to the complainants, the ban on collective bargaining in the public sector has led to the unmistakable prevalence of widespread race and sex discrimination in the workplace, in particular, unequal treatment of racial minorities and women in hiring, promotions, discharges and wage rates, as well as racial and sexual harassment. Collective bargaining could offer public sector employees numerous tools to counter racism and sexism in their workplaces, from establishing truly objective criteria for employment decisions, to developing workable anti-harassment mechanisms. The complaint concerns in particular the members of UE Local 150 which consist in their vast majority of women and people of colour in some of the most difficult, low-wage public sector jobs (janitors, refuse disposal workers, housekeepers, groundskeepers, medical technicians, bus drivers, etc.).*
982. *The complainants allege that the federal Government has refused to exercise its authority over the states to ensure that North Carolina law comports to fundamental principles embodied in Conventions Nos. 87, 98 and 151. Although these Conventions have not been ratified by the United States, the complainants rely on the ILO Declaration on Fundamental Principles and Rights at Work in support of the argument that the Government is obligated to respect, promote and realize the principles embodied in these Conventions regardless of ratification.*
983. *The Committee notes that the complainants make reference to the case law of United States federal courts which has upheld the NCGS §95-98, reasoning that states as employers are free to refuse to enter into collective bargaining agreements, and by extension, are entitled to statutorily forbid such agreements [Atkins v. City of Charlotte, 296 F.Supp. 1068 (WDNC. 1969)]; moreover, these judgements hold that despite any detrimental effects NCGS §95-98 might have on workers' ability to associate (a right guaranteed by the First Amendment to the US Constitution), the Government is under no constitutional obligation to talk to or contract with any organization [Winston-Salem/Forsyth County Unit of North Carolina Association of Educators v. Phillips, 381 F. Supp. 644 (MDNC. 1974)]. According to the complainants, by failing to take any legislative, regulatory or judicial action against NCGS §95-98, the Government is stamping its approval of state laws which outlaw the very agreements that as a member State of the ILO, it has an affirmative obligation to encourage and promote, hiding behind its federal system in an attempt to shirk its obligations arising from ILO membership. The complainants add in this respect, that the US Supreme Court established in Garcia*

[469 US528, 555-56 (1985)] that the US Congress has the constitutional authority to impose minimum wage and overtime protections for employees of the states and thus the Government cannot claim that it has no authority to intervene in this regard.

984. The Committee notes that in its reply, the Government emphasizes that it respects, promotes and realizes the fundamental principles and rights at work that are embodied in the ILO Constitution and is in full compliance with any obligations it may have by virtue of membership in the ILO. Making reference to the Committee's acknowledgment in Case No. 2227 that the United States has no international law obligations pursuant to Conventions it has not ratified, including Conventions Nos. 87 and 98 [332nd Report, para. 599], the Government further notes that it has no formal obligations under the ILO Declaration on Fundamental Principles and Rights at Work which is a non-binding statement of principles. Despite the above, the Government has submitted annual reports under the follow-up mechanism established by the Declaration that demonstrate that it respects, promotes and realizes the fundamental principles and rights at work embodied in the ILO Constitution.
985. The Committee recalls, as it had done when examining Case No. 2227 [op. cit., para. 600], that since its creation in 1951, it has been given the task to examine complaints alleging violations of freedom of association whether or not the country concerned has ratified the relevant ILO Conventions. Its mandate is not linked to the 1998 ILO Declaration – which has its own built-in follow-up mechanisms – but rather stems directly from the fundamental aims and purposes set out in the ILO Constitution. The Committee has emphasized in this respect that the function of the International Labour Organization in regard to trade union rights is to contribute to the effectiveness of the general principle of freedom of association and to protect individuals as one of the primary safeguards of peace and social justice [see **Digest of decisions and principles of the Freedom of Association Committee**, fifth edition, 2006, para. 1, and Annex I, para. 13]. It is in this spirit that the Committee intends, as it did in Case No. 2227, to pursue its examination of the present complaint which is limited to an examination uniquely of the collective bargaining situation in North Carolina.
986. The Committee notes that according to the Government, public sector employees generally perform a wide variety of jobs, from blue-collar to white-collar jobs, as well as law enforcement and defence; what sets them apart from their private-sector counterparts, is the special character of their employer, which is the whole people, speaking by means of the laws enacted by their representatives. Despite the special nature of public sector workers in the United States, they have the right to form and join unions by virtue of the First Amendment of the US Constitution. This fundamental principle is well settled in US jurisprudence and has been specifically recognized in North Carolina [Atkins v. City of Charlotte, 296 F.Supp. 1068 (WDNC. 1969)]. However, there is nothing in the US Constitution, including the First Amendment right to associate freely, that compels a party to enter into a contract with any other party. Therefore, the federal court upheld the validity of NCGS §95-98, saying that the State of North Carolina was free to decide through the people's democratically elected representatives whether to enter into such agreements [Atkins, 296 F.Supp. at 1077]. Another panel of federal district court judges further explained that this ban was an entirely appropriate way of balancing the citizenry's competing interests: "to the extent that the public employees gain power through recognition and collective bargaining, other interest groups with a right to a voice in the running of the government may be left out of vital political decisions. [...] All citizens have the right to associate in groups in order to advocate their special interests to the Government. It is something entirely different to grant any one interest group special status and access to the decision-making process." [Winston-Salem/Forsyth County Unit, NC Association of Educators v. Phillips, 381 F.Supp.644 (M.D.N.C. 1974) at 647].

987. Furthermore, the Committee notes that according to the Government, public sector workers have the right to address through the legislative process, the issues that collective bargaining typically addresses. A federal appeals court found that the prohibition on collective bargaining in NCGS §95-98 "does not extend to a union's advocacy of a particular point of view" [*Hickory Fire Fighters Association v. City of Hickory*, 656 F.2d 917 (4th Cir. 1981) at 921]. Thus, public sector employees are not prevented from engaging in collective activities to address through the legislative process, issues like compensation, benefits, conditions and other incidents of employment. The Government emphasizes that this is indeed the case in North Carolina and that this fact is acknowledged in statements made on the web sites of the local complainant organization (UE Local 150), as well as other public employees' organizations.
988. Moreover, the Committee notes that according to the Government, public sector workers in North Carolina are covered – as are public sector workers throughout the United States – by a safety net of federal and state laws and practices that secure their right to be free from workplace discrimination, unsafe and unhealthy workplaces and substandard pay and conditions of employment. The Government makes extensive reference to these laws in its reply. Finally, the Government considers that the statutory ban on collective bargaining has no incidence on trade union membership levels. According to statistical information provided by the Government, public sector employees are more likely to join unions than private sector employees; of the country's 15.7 million wage and salary employees who were union members in 2005, 7.4 million worked for some level of government, accounting for 36.5 per cent of the public sector workforce.
989. The Committee recalls the conclusions and recommendations it reached in Case No. 1557 which concerned restrictions on the rights of public sector employees to organize and bargain collectively in the United States [284th Report, paras 758–813 and 291st Report, paras 247–285]. The Committee recalls with regard to North Carolina in particular, that it had stressed that only public servants engaged in the administration of the State may be excluded from the guarantees of the principles embodied in Convention No. 98 and recalled the importance which it attached to the principle that priority should be given to collective bargaining in the fullest sense possible as the means for the settlement of disputes arising in connection with the determination of terms and conditions of employment in the public service [291st Report, para. 281]. The Committee emphasizes that it is imperative that the legislation contain specific provisions clearly and explicitly recognizing the right of organizations of public employees and officials who are not acting in the capacity of agents of the state administration to conclude collective agreements. From the point of view of the principles laid down by the supervisory bodies of the ILO in connection with Convention No. 98, this right could only be denied to officials working in ministries and other comparable government bodies, but not, for example, to persons working in public undertakings or autonomous public institutions. In addition, the mere fact that public servants are white-collar employees is not in itself conclusive of their qualification as employees engaged in the administration of the State; if this were not the case, Convention No. 98 would be deprived of much of its scope. To sum up, all public service workers, with the sole possible exception of the armed forces and the police and public servants directly engaged in the administration of the State, should enjoy collective bargaining rights [*Digest*, op. cit., paras 893 and 892].
990. With regard to the finding of the federal court in the *Atkins* case that the statutory ban on collective bargaining is acceptable under the US Constitution because there is nothing in the Constitution, including the First Amendment right to associate freely, that compels a party to enter into a contract with any other party, the Committee, while recalling the importance which it attaches to the obligation to negotiate in good faith for the maintenance of the harmonious development of labour relations, would like to emphasize

that the voluntary negotiation of collective agreements, and therefore the autonomy of the bargaining partners, is a fundamental aspect of the principles of freedom of association. Collective bargaining, if it is to be effective, must assume a voluntary character and not entail recourse to measures of compulsion which would alter the voluntary nature of such bargaining. Nothing in Article 4 of Convention No. 98 places a duty on the government to enforce collective bargaining by compulsory means with a given organization; such an intervention would clearly alter the nature of bargaining [*Digest*, op. cit., paras 925–927 and 934]. Thus, while a legislative provision that would oblige a party to conclude a contract with another party would be contrary to the principle of free and voluntary negotiations, a legislative provision, such as NCGS §95-98, which prohibits public authorities and public employees, even those not engaged in the administration of the State, from concluding an agreement, even if they are willing to do so, is equally contrary to this principle.

991. With regard to the Government's argument that the statutory ban on collective bargaining has no impact on trade union membership, the Committee emphasizes that one of the main objectives of workers in exercising their right to organize is to bargain collectively their terms and conditions of employment [Case No. 2292 (US), 343rd Report, para. 796]. It therefore considers that provisions which ban trade unions from engaging in collective bargaining unavoidably frustrate the main objective and activity for which such unions are set up, and this is contrary not only to Article 4 of Convention No. 98 but also Article 3 of Convention No. 87 which provides that trade unions shall have the right to exercise their activities and formulate their programmes in full freedom.
992. With regard to the finding of the federal court in the Phillips case that the ban on collective bargaining in the public sector in North Carolina was an appropriate way to balance the citizenry's competing interests by avoiding granting any one interest group special status and access to the government decision-making process, the Committee would like to specify that the principle of collective bargaining allows for negotiations between public servants and the government in its quality as employer and not as the executive; it concerns more specifically the terms and conditions of employment of public servants and would not necessarily include questions of public policy which might concern the citizenry more generally. In this regard, the Committee recalls the view of the Fact-finding and Conciliation Commission on Freedom of Association that "there are certain matters which clearly appertain primarily or essentially to the management and operation of government business; these can reasonably be regarded as outside the scope of negotiation". It is equally clear that certain other matters are primarily or essentially questions relating to conditions of employment and that such matters should not be regarded as falling outside the scope of collective bargaining conducted in an atmosphere of mutual good faith and trust [*Digest*, op. cit., para. 920].
993. With regard to the Government's arguments that negotiations can validly be banned in the public sector because the employer of public sector employees is the whole people and public sector employees may address through the legislative process the issues that collective bargaining typically addresses, the Committee emphasizes that it is the government authorities that exercise the functions of employer of public sector employees and that measures should be taken to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers, including the government in its quality of employer, or employers' and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements [*Digest*, op. cit., para. 880]. Legislative intervention is not a substitute for free and voluntary negotiations over the terms and conditions of employment of public employees who are not engaged in the administration of the State.

994. *This having been said, the Committee has also endorsed the point of view expressed by the Committee of Experts in its 1994 General Survey in accordance with which the special characteristics of the public service require some flexibility in the application of the principle of the autonomy of the parties to collective bargaining. Thus, legislative provisions which allow Parliament or the competent budgetary authority to set upper and lower limits for wage negotiations or to establish an overall "budgetary package" within which the parties may negotiate monetary or standard-setting clauses (for example: reduction of working hours or other arrangements, varying wage increases according to levels of remuneration, fixing a timetable for readjustment provisions) or those which give the financial authorities the right to participate in collective bargaining alongside the direct employer, are compatible with the principle of collective bargaining, provided that it is given a significant role. It is essential, however, that workers and their organizations be able to participate fully and meaningfully in designing this overall bargaining framework, which implies in particular that they must have access to all the financial, budgetary and other data enabling them to assess the situation on the basis of the facts. This is not the case of legislative provisions which impose unilaterally, for example, a specific percentage increase and rule out any possibility of bargaining. The Committee is aware that collective bargaining in the public sector calls for verification of the available resources in the various public bodies or undertakings, that such resources are dependent upon state budgets and that the period of duration of collective agreements in the public sector does not always coincide with the duration of budgetary laws – a situation which can give rise to difficulties. However, it considers that the authorities should give preference as far as possible to collective bargaining in determining the conditions of employment of public servants who are not engaged in the administration of the State [see **Digest**, op. cit., para. 1038].*
995. *In conclusion, the Committee emphasizes that the right to bargain freely with employers, including the government in its quality of employer, with respect to conditions of work of public employees who are not engaged in the administration of the State, constitutes an essential element in freedom of association, and trade unions should have the right, through collective bargaining or other lawful means, to seek to improve the living and working conditions of those whom the trade unions represent. The public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof. Any such interference would appear to infringe the principle that employers' and workers' organizations should have the right to organize their activities and to formulate their programmes [**Digest**, op. cit., para. 881].*
996. *The Committee finally notes that according to the Government, public sector employment takes place at the federal, state and local levels in a decentralized and diverse system which is embedded in the US Constitution under which the federal Government exercises only those powers the Constitution gives it; all other powers are reserved to the states or the people themselves. The states, in turn, may delegate their powers to local units of government, such as cities, counties, or municipalities. The regulation of labour relations in the United States respects the constitutionally mandated distribution of power between the national and state governments. When Congress in 1935 enacted the country's primary collective bargaining law, the National Labor Relations Act, it specifically excluded state and local government employers from the law's scope, thereby deferring to principles of federalism. Since that time, legislation occasionally has been introduced to allow federal oversight of collective bargaining at the state level, but it has never enjoyed majority support in either House of Congress and has not been enacted into law, in part because questions remain about the propriety of the federal Government intruding into the authority of state governments to enter into their own contracts. Respecting the states' autonomy in this field, the federal Government nevertheless actively encourages and promotes sound collective bargaining practices at both the federal and state levels, in*

particular through the Federal Mediation and Conciliation Service which makes available a number of services for use in the public sector at both the federal and state levels (mediation including collective bargaining mediation, joint labour-management committees, etc.).

997. The Committee notes that it always takes account of national circumstances, such as the history of labour relations and the social and economic context, but the freedom of association principles apply uniformly and consistently among countries [*Digest*, op. cit., para. 10]. Thus, while noting the issues arising from the federal structure of the country, the Committee is bound to observe that the ultimate responsibility for ensuring respect for the principles of freedom of association lies with the Government [*Digest*, op. cit., para. 17]. Moreover, the Committee recalls the Government's indication in Case No. 1557 that the Supreme Court ruling in the Garcia case "supports the notion that the federal Government may intervene in matters concerning state and local government employees" [291st Report, para. 273].
998. The Committee recalls that in Case No. 1557 it had taken note of plans to establish a National Partnership Council entrusted with developing and promoting a new framework for labour-management relations in the federal Government, and had recommended that the underlying principles discussed in that joint body serve as useful guidelines for the establishment of a collective bargaining framework appropriate to state and local conditions, including in North Carolina [291st Report, para. 281]. The Committee regrets that it never received information on the follow-up to this recommendation. It requests the Government to promote the establishment of a collective bargaining framework in the public sector in North Carolina – with the participation of representatives of the state and local administration and public employees' trade unions, and the technical assistance of the Office if so desired – and to take steps aimed at bringing the state legislation, in particular, through the repeal of NCGS §95-98, into conformity with freedom of association principles, thus ensuring effective recognition of the right of collective bargaining throughout the country's territory. The Committee requests to be kept informed of developments in this respect.

The Committee's recommendation

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

The Committee requests the Government to promote the establishment of a collective bargaining framework in the public sector in North Carolina – with the participation of representatives of the state and local administration and public employees' trade unions, and the technical assistance of the Office if so desired – and to take steps aimed at bringing the state legislation, in particular, through the repeal of NCGS §95-98, into conformity with freedom of association principles, thus ensuring effective recognition of the right of collective bargaining throughout the country's territory. The Committee requests to be kept informed of developments in this respect.