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Newsflash Japan (06/20) Entry Restrictions to Japan for Foreigners during COVID-19 and Exemptions

According to Article 5 paragraph 1 item 14 of the *Japanese Immigration Control and Refugee Recognition Act*, foreign nationals are generally refused entry to Japan in case they fall under a reason designated by the Ministry of Justice (MoJ) as risk for the interests or public safety of Japan.

Based on this provision, in view of the COVID-19 pandemic, the MoJ has published a list of countries, which includes all EU member states, from which the entry to Japan is principally prohibited. The list of countries has been last updated on 27 May:

<http://www.moj.go.jp/content/001318288.pdf>.

- **General Rule: Refusal of Entry**

Foreigners who have stayed in any of the countries stated in the list in the last 14 days prior to their intended visit to Japan are denied entry unless *particular exceptional circumstances* do apply. In addition to the special visa categories mentioned below, *particular exceptional circumstances* are only granted for foreigners desiring re-entry to Japan based on a valid re-entry permit, i.e. for persons with a middle-or long-term visa who have left Japan temporarily and wish to re-enter. Foreigners who are first time visitors or who had visited Japan with a short-term visa issued at the airport (tourist visa, business-trip visa etc.) in the past and who have since left Japan are not able to re-enter Japan, because these visa types lose their effect upon departure. For re-entry visa holders, in an announcement of 12 June 2020, the MoJ has listed the following concrete examples for particular exceptional circumstances allowing an exemption from the entry restriction <http://www.moj.go.jp/content/001321982.pdf>.

- **Exception 1: Special Visa Categories**

Foreigners with special visa types, such as (i) permanent residence, (ii) spouse etc. of a Japanese citizen, (iii) spouse of a permanent resident, or (iv) long-term resident* are considered as having *particular exceptional circumstances*, and therefore re-entry to Japan is principally permitted, provided however they left Japan with a re-entry permit** on or prior to 2 April 2020. For the time period between 3 April and 26 May 2020 it is principally decisive whether the country the foreigner has visited was already on the list at the time of the departure from Japan (in this case a re-entry is principally denied) or was included in the list only after the departure (re-entry principally admitted). For departures on or after 27 May 2020, *particular exceptional circumstances* are generally not admitted.

*Long-term resident is a special visa category for foreigners with Japanese ancestors, former refugees from Vietnam, Laos, Cambodia, etc.

**Re-entry permit is a permit to re-enter Japan, which can be obtained at the immigration office; for foreigners with a middle-or long-term visa from European and many other countries, a so-called "special re-entry permit" can be obtained directly at the airport by filling out a form, checking the box indicating that a return to Japan is intended, and by handing this form over to the immigration officer upon departure from Japan.

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- **Exception 2:** Individual Circumstances requiring Particular Humanitarian Considerations

In addition to the above, re-entry to Japan may be granted, based on *particular exceptional circumstances*, to all foreigners with a middle-or long-term visa and a re-entry permit for *particular humanitarian considerations*.

Based thereon, re-entry can be permitted in case a foreigner has left Japan either (i) to visit a relative in a critical medical condition or to attend a funeral of a relative, or (ii) to undergo medical treatment abroad, or (iii) to act as witness in foreign court proceedings. In addition, limited to cases where a foreigner departed before the country visited was included in the MoJ list, foreigners may also be allowed re-entry if (i) their family is still in Japan, (ii) if they departed with their child enrolled in a Japanese educational institution, or (iii) in case they need to undergo medical treatment at a Japanese medical institution.

It needs to be taken into consideration that finally, the grant of entry to Japan lies in the discretion of the immigration officer and for this reason, entry to Japan is not enforceable by legal means, even if a foreigner meets the requirements stipulated by the MoJ. To this end, to re-enter Japan after having stayed for a period of 14 days or longer in a land which is not on the MoJ list (e.g., Cambodia), or to benefit from one of the exemptions above, it will be necessary to submit sufficient evidence allowing the immigration officer to confirm that the criteria for an entry to Japan are fulfilled. Practical experience shows that, in particular when having stayed for 14 days in a country not included in the MoJ list, it is helpful to submit evidence for the stay in a renowned hotel (where adequate hygiene can be expected), whereas staying at a private address bears a high risk of refusal.

It is to be expected that alleviations of the entry restrictions will be implemented based on bilateral or multinational agreements with the countries concerned. In this respect, the alleviation of quarantine requirements in European countries may be a first indication but has to be clearly distinguished from the restrictions of immigration. First alleviations of the immigration restrictions are expected to be implemented with respect to certain Asian countries with a low infection rate; since the situation is changing almost on a daily basis, it is strongly recommendable to observe the respective information on the website of the MoJ: http://www.moj.go.jp/hisho/kouhou/hisho06_00099.html.