

TM/UN/167

The Permanent Mission of Japan to the International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights in Geneva and, with reference to the letter Ref. AL JPN 2/2021, dated 19 February 2021, has the honour to transmit herewith the reply from the Government of Japan to the Joint Communication sent by Ms. E Tendayi ACHIUME, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. Koumbou BOLY BARRY, Special Rapporteur on the right to education, Mr. Felipe GONZÁLEZ MORALES, Special rapporteur on the human rights of migrants, and Mr. Fernand de VARENNES, Special Rapporteur on minority issues.

The Permanent Mission of Japan to the International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights in Geneva the assurances of its highest consideration.

Geneva, 19 April 2021

Enclosure mentioned



Reply of the Government of Japan to the Joint Communication from the Special Procedures (AL JPN2/2021)

In reference to the joint communication dated 19 February 2021, sent by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the right to education, the Special Rapporteur on the human rights of migrants, and the Special Rapporteur on minority issues to the Permanent Mission of Japan to the International Organizations in Geneva, the Government of Japan provides the following response.

1. The Government of Japan first would like to make it clear that the Government of Japan recognizes that human rights are universal values and their protection is the most fundamental responsibility of all nations.
2. Next, the Government of Japan provides the following responses to Questions 1, 2, 3, and 4.

**Response to Question 1**

The “Emergency Student Support Handout for Continuing Studies (ESSHCS)” is a program implemented to provide emergency financial support primarily to students who do not live with their families and use income from part-time jobs to meet their tuition fees and other expenses. It is designed to financially support such students, whose income from their part-time jobs has decreased significantly due to the COVID-19 pandemic, making it difficult for them to continue their studies at universities or other educational institutions.

As there are some factual misunderstandings in the concerns outlined in the joint communication and in the information received by the Special Rapporteur, we wish to correct these, and also to state that the Japanese Ministry of Education, Culture, Sports, Science and Technology (MEXT) is implementing this program in line with the approach detailed below. We therefore regard it as incorrect to allege that “this programme does not comply with Japan’s obligations under international human rights law, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Japan is a State party.”

First, eligibility for ESSHCS applies equally to Japanese students who attend educational institutions such as universities, and to non-Japanese international students from overseas, and the information that “the programme sets out additional criteria for international students” is factually incorrect. In specific terms, the eligibility criteria for students attending university or other educational institutions and for international students from overseas are as detailed in Sections 1 and 2 below.

1. Those who fulfill criteria (1) through (6) below
  - (1) Does not receive large remittances from their family

- (2) In principle, lives outside their family's/financial supporter's home (although in some cases students living in their family's/financial supporter's home may be eligible)
- (3) Income from their part-time job accounts for a large percentage of funds for paying daily expenses and tuition
- (4) Cannot expect to receive additional support from their family due to a decrease in income of their family (of either parent) or for other such reasons
- (5) Has lost a significant amount (50% or more compared to the previous month) of income from their part-time job due to the COVID-19 pandemic
- (6) In principle, fulfills the criteria for one of the following existing programs for Japanese students. (As international students are not eligible for these existing programs, they should instead meet the criteria of the Japan Student Services Organization (JASSO)'s scholarship program detailed below\*).
  - 1) Is a Class I recipient (i.e., belongs to a household exempt from municipal tax) under the New Higher Education Support System (hereinafter, "New System"). Those who intend to apply for the New System at a later date are also regarded as meeting this criterion; the same applies below.
  - 2) Is a Class II or III recipient (i.e., belongs to a household equivalent to a household exempt from municipal tax) under the New System and has used the interest-free scholarship from JASSO to the maximum limit (50,000–60,000 yen per month). Those who plan to use the interest-free scholarship to the maximum limit at a later date are also regarded as meeting this criterion; the same applies below.
  - 3) Is ineligible for the New System based on household income and has used the interest-free scholarship from JASSO to the maximum limit.
  - 4) Is ineligible for the New System or an interest-free scholarship from JASSO because the student does not meet the criteria, but is using a support program provided by the private sector or elsewhere for which the student is eligible to apply.

\* The following criteria apply to international students:

- 1) Is achieving excellent grades. Specifically, average grades for the previous school year must be 2.30 or higher.
- 2) Monthly attendance is 80% or above.
- 3) Receives an average of no more than 90,000 yen in monthly remittances (not including funds for paying admission fees, tuition fees, etc.).
- 4) The student's supporter in Japan has an annual income of less than 5 million yen.

2. Those whose university or other educational institution has recognized them as facing economic hardship that would make it difficult for them to continue their studies, having taken into account the criteria in Section 1 above

Although Item (6) of Section 1 above includes the criteria for international students indicated with an asterisk, these are not additional criteria; they are rather alternatives to the criteria item (6) i) to

iv) of Section 1 for Japanese students. The criteria items (6) i) to vi) are criteria based on the existing programmes (the New System and interest-free scholarship). Alternatives to these criteria were established to enable the inclusion of international students as targets of ESSHCS. In particular, we would like to emphasize that even under the existing programmes, which are shown as criteria for Japanese students, in principle, academic performance is also required (academic performance is a requirement to become a recipient of the New System and interest-free scholarship from JASSO mentioned above). For these reasons, there is a factual error concerning the information that the program sets out *additional* criteria whereby “for example, international students are required to prove ‘excellent’ academic performance,” and it cannot be claimed that the program discriminates against international students in particular. Furthermore, even if students, including international students, do not fulfill these criteria, financial support is provided pursuant to Section 2 to those who are recognized by their university or other educational institution as facing economic hardship that would make it difficult for them to continue their studies. It is therefore also incorrect to allege that the eligibility criteria “disqualify international students in need.”

As of January 31, 2021, ESSHCS had been provided to approximately 420,000 out of a total of 3,770,000 students attending educational institutions eligible for the program, accounting for around 11 percent of such students. Meanwhile, the support handout had been provided to approximately 57,000 out of a total of 310,000 international students at eligible institutions, accounting for around 18 percent of such students. These figures also demonstrate that the program cannot be described as treating international students unfairly.

Second, with regard to eligible educational institutions, the information that “this exclusion may amount to prohibited discrimination on race, ethnicity, or national origin grounds” is based on misunderstandings of the facts.

The educational institutions eligible for ESSHCS include universities, technical colleges, specialized training colleges (limited to post-secondary courses), and Japanese language institutions (the latter are defined by the Ministry of Justice’s Public Notice No. 145 issued in 1990 entitled The Determination of Japanese Language Institutions Based on the Basic Rules for the Residence Status of International Students under the Ministerial Order to Provide for Criteria Pursuant to Article 7, Paragraph (1), Item (ii) of the Immigration Control and Refugee Recognition Act) etc. Students who attend the categories of schools listed above are eligible for ESSHCS, regardless of whether they are Japanese or non-Japanese. Not only pupils (students) attending “miscellaneous schools” but also students attending upper secondary courses and general courses of specialized training colleges are not eligible, although those attending post-secondary courses are eligible. Students who attend the categories of schools, such as “miscellaneous schools” and upper secondary courses and general courses in the specialized training colleges, are not eligible, regardless of whether they are Japanese or non-Japanese. Therefore, the fact that ESSHCS

coverage applies to neither “Chosen Dai-Gakko<sup>1</sup> (Tokyo)” (referred to in the joint communication as “Korea University (Tokyo)”) nor “Special Training Colleges that are predominantly attended by foreign nationals”—both of which fall within the above categories of schools—does not constitute, in any case, discrimination based on the grounds of race, ethnicity, or national origin.

To conclude our response to Question 1, this program is implemented as a measure to address the unprecedented crisis resulting from the spread of COVID-19 in order to provide emergency financial support to students who are finding it difficult to continue their studies at universities or other educational institutions, regardless of whether they are Japanese students or international students. It involves no exclusion or discrimination on the grounds of race, ethnicity, or national origin and it does not “disqualify international students in need.”

Furthermore, we do not think it is possible to draw the conclusion that “in 2017/2018, approximately 75 percent of self-financed international students in Japan relied on part-time jobs, which accounted for 50 percent of their incomes” simply from the Lifestyle Survey of Privately Financed International Students published by JASSO.

## **Response to Question 2**

It is not possible to provide “all relevant information” here, but additional information with respect to your communications, and Japan’s own views, are as described in the response to Question 1 above. Information provided in the response to Question 1, such as, for example, an overview of the support handout program and eligibility criteria for receipt of the handout, is made widely public on MEXT’s website so that anybody can use such information for reference. In addition, the website includes an English-language page for non-Japanese users.

Please refer to: Webpage on the MEXT website relating to the Emergency Student Support Handout for Continuing Studies

[https://www.mext.go.jp/a\\_menu/koutou/hutankeigen/mext\\_00707.html](https://www.mext.go.jp/a_menu/koutou/hutankeigen/mext_00707.html)

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<sup>1</sup> Chosen Dai-Gakko:

The educational institution listed as “Korea University” in the joint communication from the Special Rapporteur. Although the translated word “university” is used in the joint communication, Chosen Dai-Gakko, as a school type, is not currently categorized as a university (Daigaku). The name of the school is Dai-Gakko not DAIGAKU which is often translated as “university” in the Japanese language.

Chosen Dai-Gakko has applied as a “miscellaneous school” and that is how it is currently registered. This does not preclude Chosen Dai-Gakko from applying by itself to become a university as stipulated in Article 1 of the School Education Act.

In addition, MEXT provides a list of programs that international students can apply to and information are made widely public in its website, which is gathered mainly from information on the websites of various government ministries and agencies.

Please refer to: Webpage on the MEXT website entitled “To all International Students Studying in Japan: List of Programs Available to International Students”

[https://www.mext.go.jp/a\\_menu/koutou/ryugaku/1405561\\_00007.htm](https://www.mext.go.jp/a_menu/koutou/ryugaku/1405561_00007.htm)

Note also that, in accordance with the Ministerial Order to Provide for Criteria Pursuant to Article 7, Paragraph (1), Item (ii) of the Immigration Control and Refugee Recognition Act (Ministry of Justice Order No. 16 of 1990), if international students receive instruction entirely via remote learning, their activities are not deemed to qualify them for the status of residence of “Student.” However, as a measure in response to the current COVID-19 pandemic, remote classes offered by schools as necessary for purposes including infection prevention measures required as part of school operations are in some cases deemed to be activities that qualify international students for the status of residence of “Student.”

### **Response to Question 3**

Should foreigners living in Japan wish that their children under their custody enter the Japanese public schools providing compulsory education, the children are provided with the opportunity to receive the same education as Japanese citizens, including the opportunity to receive a standard education under the Japanese mandatory education system for free, in accordance with the international covenants on human rights and other agreements. Accordingly, the Government of Japan provides financial support to local governments that implement measures to facilitate non-Japanese children’s attendance at school and strives to publicize examples of progressive measures in this regard. In addition, guidelines on facilitating school attendance and assessing the attendance situation were devised in accordance with the Basic Policy for the Comprehensive and Effective Implementation of Measures to Promote Japanese Language Education (approved by the Cabinet on June 23, 2020), and these guidelines were notified to all of Japan’s local governments on July 1, 2020.

The government has also institutionalized the creation and implementation of special curriculums to deliver Japanese-language instruction in schools providing compulsory education. In conjunction with this, it provides financial support for appointment of teachers to deliver Japanese-language instruction and deployment of external personnel, including Japanese-language instruction assistants and support staff who speak the children’s native languages.

### **Response to Question 4**

The Government of Japan believes it is of paramount importance to support students who face economic hardship as a result of the COVID-19 pandemic to prevent such students from giving up on continued study or progression to the next stage of education.

Of all the measures taken to address the impact of COVID-19, it is impossible to provide an exhaustive list of those that also cover students in higher education, but the following are some examples of the types of measures implemented for students:

- (1) Emergency Student Support Handout for Continuing Studies (outlined above)
- (2) Government financial support for individual universities independently offering students reductions or exemptions for tuition and other fees (FY2020 supplementary budget: approximately 16 billion yen)
- (3) Special measures with regard to the status of residence of “Student”
  - i) International students residing in Japan with the status of residence of “Student” who continue to receive education at an educational institution (including cases in which students continue to receive education after transferring their school enrollment from the educational institution at which they are enrolled, or continue to receive education at an educational institution other than the one at which they were previously enrolled) may extend the period of stay. In addition, if they obtain permission to engage in activity other than that permitted under the status of residence previously granted (hereinafter, “permission to engage in another activity”) they are in principle allowed to engage in part-time jobs for up to 28 hours per week.
  - ii) Although international students exclusively engaged in Japanese-language education are usually permitted to stay in Japan for a maximum of two years, in certain cases students enrolled on courses that started in January 2021 or earlier (who entered Japan by March 2021) may extend the period of stay beyond the usual two years. Eligible students are those who have experienced difficulties in progressing to the next stage of education or in finding employment due to circumstances resulting from the impacts of the COVID-19 pandemic, such as being unable to achieve the learning objectives originally set, or arriving in Japan later than planned. Extension is permitted for up to a maximum of one year after the originally scheduled end of their respective courses, until they progress to the next stage of education or find employment.
  - iii) International students who had the status of residence of “Student” (regardless of the timing of their graduation, or whether or not they have graduated), who are acknowledged as being unable to secure a flight home or return to a residence in their home country due to the impacts of the COVID-19 pandemic, may change their status of residence to “Designated Activities (6 months).” If students who intend to stay in Japan with the status of residence “Designated Activities (6 months)” wish to work, they are allowed to engage in part-time jobs for up to 28 hours per week, even without obtaining permission to engage in another activity.
  - iv) International students whose status of residence is still valid (even if they have already graduated from an educational institution), who are acknowledged as being unable to secure a flight home or return to a residence in their home country due to the impacts of

the COVID-19 pandemic, are allowed to engage in part-time jobs for up to 28 hours per week, provided they have already obtained permission to engage in another activity.

(4) Special Cash Payments (related to Emergency Economic Measures to Cope with COVID-19)  
The Government of Japan provided 100,000 yen (equivalent to approximately 930 US dollars) for each household member to heads of households registered on the Basic Resident Registration System as of the reference date (April 27, 2020). Non-Japanese residents registered on the Basic Resident Registration System were also eligible to receive payments through this scheme.

(5) Distribution of cloth masks to all households

In light of developments including a persistent shortage of masks for sale in stores, the Government of Japan used Japan Post's delivery network to distribute washable and reusable cloth masks to all households between April and June 2020. Masks were distributed to all residents regardless of nationality, provided that Japan Post had a record of their address.

The Government of Japan intends to continue exploring further measures that may be required in light of the changing situation with regard to COVID-19 and students' studies.