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## Annexes

**Q5**

### Annex 1 - Number of GoJ-identified Abductees

Number of victims of abduction identified by the GoJ  
(By gender, age, nationality)

Age (at time of disappearance)	Gender		Nationality
	M	F	
13		1	Japan
19		1	Japan
20	1		Japan
22	1	2	Japan
23	2	2	Japan
24		1	Japan
26	1		Japan
28	1		Japan
29		1	Japan
43	1		Japan
46		1	Japan
52	1		Japan
Total	8	9	

**Q8**

### Annex 2 - Minimum and Maximum Legal Penalties for Enforced Disappearances

Crime	Minimum	Maximum
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Unlawful capture and confinement (Article 220, Penal Code)	3 months imprisonment	7 years imprisonment
Unlawful capture or confinement causing death or injury (Article 221, Penal Code)		
Unlawful capture or confinement causing injury	3 months imprisonment	15 years imprisonment
Unlawful capture or confinement causing death	3 years imprisonment	20 years imprisonment
Kidnapping (Articles 224 to 227, Penal Code)		
Kidnapping of minors (Article 224, Penal Code)	3 months imprisonment	7 years imprisonment
Kidnapping for profit (Article 225, Penal Code)	1 year imprisonment	10 years imprisonment
Kidnapping for ransom (Article 225-2, Penal Code)	3 years imprisonment	Life imprisonment
Kidnapping for transportation out of a country (Article 226, Penal Code)	2 years imprisonment	20 years imprisonment
Buying or selling of human beings (Article 226-2, Penal Code)		
Buying another (person)	3 months imprisonment	5 years imprisonment
Buying a minor	3 months imprisonment	7 years imprisonment
Buying and selling another (person) for profit	1 year imprisonment	10 years imprisonment
Buying or selling another(person) for transportation out of a country	2 years imprisonment	20 years imprisonment
Delivery of kidnapped persons (Article 227, Penal Code)		
Delivery of kidnapped persons for aiding kidnapping for profit	3 months imprisonment	5 years imprisonment
Delivery of kidnapped persons for aiding kidnapping for ransom	1 year imprisonment	10 years imprisonment
Delivery of kidnapped persons for profit	6 months imprisonment	7 years imprisonment

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Receiving kidnapped persons for ransom / Receiving ransom by a person who has received a kidnapped person	2 years imprisonment	20 years imprisonment
Harboring or enabling an escape of criminals (Article 103, Penal Code)	10,000 yen fine 1 month imprisonment	300,000 yen fine 3 years imprisonment
Suppression of evidence (Article 104, Penal Code)	10,000 yen fine 1 month imprisonment	300,000 yen fine 3 years imprisonment
Uttering of counterfeit official documents (Article 158, Penal Code)		
Uttering of counterfeit Imperial rescript	3 years imprisonment	Life imprisonment
Uttering of counterfeit official document bearing seal or signature / Uttering of altered official document bearing seal or signature	1 year imprisonment	10 years imprisonment
Uttering of counterfeit official document without seal or signature / Uttering of altered official document without seal or signature	10,000 yen fine 1 month imprisonment	200,000 yen fine 3 years imprisonment
Uttering of original of notarized deeds with false entries, etc.	10,000 yen fine 1 month imprisonment	500,000 yen fine 5 years imprisonment
Uttering of license with false entries, etc.	10,000 yen fine 1 month imprisonment	200,000 yen fine 1 year imprisonment
Abuse of authority by public employee (Article 193, Penal Code)	1 month imprisonment with or without work	2 years month imprisonment with or without work
Abuse of authority by special public employee (Article 194, Penal Code)	6 months imprisonment with or without work	10 years imprisonment with or without work
Abuse of authority causing death or injury by special public employee (Article 196, Penal Code)		
Abuse of authority causing injury by special public employee	6 months imprisonment	15 years imprisonment

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Abuse of authority causing death by special public employee	3 years imprisonment	20 years imprisonment
Organized unlawful capture and confinement (Article 3, Paragraph (1), item (viii), Organized Crime Punishment Act and Article 220, Penal Code)	3 months imprisonment	10 years imprisonment
Organized kidnapping for ransom (Article 3, Paragraph (1), item (x), Organized Crime Punishment Act and Article 225-2, Penal Code)	5 years imprisonment	Life imprisonment

## Q9

### Annex 3 - Number of Suspects and Number of Complaints of Alleged Incidents Already Settled

Crime	Year	Total no.	Complaints filed with prosecutor	Complaints filed with judicial police officer
Unlawful capture and confinement (Article 220 and Article 221, Penal Code)	2012	464	37	29
	2013	445	22	16
	2014	461	26	7
	2015	528	46	45
	2016	482	24	10
Kidnapping and buying and selling of human beings (Article 224, Article 225, Article 226 to Article 227, Paragraph (1) and Paragraph (3), Penal Code)	2012	205	1	55
	2013	196	2	43
	2014	222	3	36
	2015	201	0	31
	2016	211	24	10
Kidnapping for ransom (Article 225-2, Article 227, Paragraph (2) and Paragraph (4), and Article 228-3, Penal Code)	2012	2	0	0
	2013	10	0	0
	2014	1	0	0
	2015	14	0	0
	2016	9	4	0
Harboring a criminal and evidence suppression Article 103, Article 104, and Article 105-2, Penal	2012	872	91	9
	2013	951	96	19
	2014	896	113	24
	2015	755	45	4

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Code) (Premise of crime not limited to acts concerning enforced disappearance)	2016	849	88	13
Uttering of counterfeit official document (Article 158 and Article 161-2, Paragraph (3), Penal Code) (Premise of crime not limited to acts concerning enforced disappearance)	2012	385	23	7
	2013	272	2	7
	2014	337	7	10
	2015	323	63	16
	2016	313	6	7
Abuse of authority (Article 193 through 196, Penal Code)	2012	947	745	35
	2013	962	663	83
	2014	868	695	56
	2015	858	686	78
	2016	1317	1146	87

#### **Q11**

##### **Annex 4 - Penal Code (Article 60-62)**

(Co-Principals)

Article 60 Two or more persons who commit a crime in joint action are all principals.

(Inducement)

Article 61 (1) A person who induces another to commit a crime shall be dealt with in sentencing as a principal.

(2) The same shall apply to a person who induces another to induce.

(Accessoryship)

Article 62 (1) A person who aids a principal is an accessory.

(2) A person who induces an accessory shall be dealt with in sentencing as an accessory.

#### **Q12**

##### **Annex 5 - Statute of Limitations from Prosecution**

1. Provisions of Article 250 of the Code of Criminal Procedure

(1) Crimes causing the death of a person and punishable with the death penalty: No statute of limitations of prosecution

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(2) Crimes causing the death of a person and punishable with imprisonment without work or heavier punishment (except for those punishable with the death penalty)

- Crimes punishable with life imprisonment with or without work: 30 years
- Crimes punishable with imprisonment with or without work for a maximum term of 20 years: 20 years
- Other crimes: 10 years

(3) Other crimes

- Crimes punishable with the death penalty: 25 years
- Crimes punishable with life imprisonment with or without work: 15 years
- Crimes punishable with an imprisonment with or without work for a maximum term of 15 years or more: 10 years
- Crimes punishable with an imprisonment with or without work for a maximum term of less than 15 years: 7 years
- Crimes punishable with an imprisonment with or without work for a maximum term of less than 10 years: 5 years
- Crimes punishable with an imprisonment with or without work for a maximum term of less than 5 years: 3 years
- Offenses punishable with penal detention or with a petty fine: 1 year

2. The statute of limitations from prosecution for crimes in the response to Q7 is as follows.

(1) Unlawful capture and confinement (Article 220, Penal Code): 5 years

(2) Unlawful capture and confinement causing death or injury (Article 221, Penal Code): 10 years (causing injury) and 20 years (causing death)

(3) Kidnapping (Article 224 through Article 227, Penal Code)

- Kidnapping of minors (Article 224, Penal Code): 5 years
- Kidnapping for profit (Article 225, Penal Code): 7 years
- Kidnapping for ransom (Article 225-2, Penal Code): 15 years
- Kidnapping for transportation out of a country (Article 226, Penal Code): 10 years
- Buying or selling of human being for transportation out of a country (Article 226-2, Paragraph (5), Penal Code): 10 years
- Delivery of kidnapped person for aiding kidnapping for ransom (Article 227, Paragraph (2), Penal Code): 7 years

(4) Harboring or enabling an escape of criminals (Article 103, Penal Code): 3 years

(5) Suppression of evidence (Article 104, Penal Code): 3 years

(6) Uttering of counterfeit official document (Article 158, Penal Code): 3 years, 5 years, 7 years, 15 years (depending on document, etc.)

(7) Abuse of authority by public employee (Article 193, Penal Code): 3 years

(8) Abuse of authority by special public employee (Article 194, Penal Code): 7 years

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(9) Abuse of authority causing death or injury by special public employee (Article 196, Penal Code): 10 years (causing injury) and 20 years (causing death)

(10) Organized unlawful capture and confinement (Article 3, Paragraph (1), item (viii), Organized Crime Punishment Act and Article 220, Penal Code): 7 years

(11) Organized kidnapping for ransom (Article 3, Paragraph (1), item (x), Organized Crime Punishment Act and Article 225-2, Penal Code): 15 years

3. Furthermore, murder charges (Article 199, Penal Code) apply when the victim of enforced disappearance was killed intentionally and charges of inflicting bodily injury resulting in death (Article 205, Penal Code) apply when the victim dies after exposed to violence without intent to kill. In such cases, there is no statute of limitations from prosecution of murder charges and the statute of limitations from prosecution for charges of inflicting bodily injury resulting in death is 20 years.

### **Annex 6 - Code of Criminal Procedure (Article 254)**

Article 254 (1) The statute of limitations shall cease to run on the institution of prosecution against the case concerned, and shall begin to run when a decision notifying jurisdictional incompetence or dismissing the prosecution has become final.

(2) The suspension of the statute of limitations because of the institution of prosecution against one of the accomplices shall take effect against the other accomplices. In such case, the suspended period shall commence to run when the decision on the case has become final and binding.

### **Q13**

### **Annex 7 - Penal Code (Article 3,3-2,4,4-2)**

(Crimes Committed by Japanese Nationals outside Japan)

Article 3 This Code shall apply to any Japanese national who commits one of the following crimes outside the territory of Japan:

(i) The crimes prescribed under Article 108 (Arson of Inhabited Buildings) and paragraph (1) of Article 109 (Arson of Uninhabited Buildings), and other crimes which shall be dealt with in the same manner as the preceding crimes provided therein, as well as an attempt of the above-mentioned crimes;

(ii) The crime prescribed under Article 119 (Damage to Inhabited Buildings by Flood);

(iii) The crimes prescribed under Articles 159 through 161 (Counterfeiting of Private Documents; Falsifying of Medical Certificates; Utterance of Counterfeit Private Documents) and the crime regarding electronic or magnetic records in Article 161-2 except that which shall fall within item (v) of the preceding Article;

(iv) The crimes prescribed under Article 167 (Counterfeiting or Unauthorized Use of Private Seals) and an attempt of the crimes prescribed under paragraph (2) of that Article;

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- (v) The crimes prescribed under Articles 176 through 181 (Forcible Indecency; Forcible Sexual Intercourse; Quasi Forcible Indecency and Quasi Forcible Sexual Intercourse; Indecency by Person Having Custody of Person under 18 ; Sexual Intercourse by Person Having Custody of Person under 18; Attempts; Forcible Indecency Causing Death or Injury) and 184 (Bigamy);
- (vi) The crime prescribed under Article 198 (Giving of Bribes)
- (vii) The crime prescribed under Article 199 (Homicide) and attempt thereof;
- (viii) The crimes prescribed under Articles 204 (Injury) and 205 (Injury Causing Death);
- (ix) The crimes prescribed under Articles 214 through 216 (Abortion through Professional Conduct; Causing Death or Injury thereof; Abortion without Consent; Abortion without Consent Causing Death or Injury);
- (x) The crime prescribed under Article 218 (Abandonment by a Person Responsible for Protection) and the crime prescribed under Article 219 (Abandonment Causing Death or Injury); in connection with the crime prescribed under Article 218;
- (xi) The crimes prescribed under Articles 220 (Unlawful Capture; Confinement) and 221 (Unlawful Capture or Confinement Causing Death or Injury);
- (xii) The crimes prescribed under Articles 224 through 228 (Kidnapping of Minors; Kidnapping for Profit; Kidnapping for Ransom; Kidnapping for Transportation out of a Country; Buying or Selling of Human Beings; Transportation of Kidnapped Persons out of a Country; Delivery of Kidnapped Persons; Attempts);
- (xiii) The crime prescribed under Article 230 (Defamation);
- (xiv) The crimes prescribed under Articles 235 through 236 (Larceny; Taking Unlawful Possession of Real Estate; Robbery), 238 through 240 (Constructive Robbery; Robbery through Causing Unconsciousness; Robbery Causing Death or Injury; ), paragraphs (1) and (3) of Article 241 (Robbery or Forcible Sexual Intercourse; Causing Death Thereby), and Article 243 (Attempts);
- (xv) The crimes prescribed under Articles 246 through 250 (Fraud; Computer Fraud; Breach of Duty of Loyalty; Quasi Fraud; Extortion; Attempts);
- (xvi) The crime prescribed under Article 253 (Embezzlement in the Pursuit of Social Activities);
- (xvii) The crimes prescribed under paragraph (2) of Article 256 (Acceptance of Stolen Property).

(Crimes Committed by Non-Japanese Nationals outside Japan)

Article 3-2 This Code shall apply to any non-Japanese national who commits one of the following crimes against a Japanese national outside the territory of Japan.

- (i) The crimes prescribed under Articles 176 through 181 (Forcible Indecency; Forcible Sexual Intercourse; Quasi Forcible Indecency and Quasi Forcible Sexual Intercourse;



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Indecency by Person Having Custody of Person under 18; Sexual Intercourse by Person Having Custody of Person under 18; Attempts; Forcible Indecency Causing Death or Injury);

- (ii) The crime prescribed under Articles 199 (Homicide) and attempt thereof;
- (iii) The crimes prescribed under Articles 204 (Injury) and 205 (Injury Causing Death);
- (iv) The crimes prescribed under Articles 220 (Capture; Confinement) and 221 (Unlawful Capture or Confinement Causing Death or Injury);
- (v) The crimes prescribed under Articles 224 through 228 (Kidnapping of Minors; Kidnapping for Profit; Kidnapping for Ransom; Kidnapping for Transportation out of a Country; Buying or Selling of Human Beings; Transportation of Kidnapped Persons out of a Country; Delivery of Kidnapped Persons; Attempts);
- (vi) The crimes prescribed under Articles 236 (Robbery), 238 through 240 (Constructive Robbery; Robbery through Causing Unconsciousness; Robbery Causing Death or Injury), paragraphs (1) and (3) of Article 241 (Robbery or Forcible Sexual Intercourse; Causing Death Thereby), and attempts of these crimes (excluding the crime prescribed in paragraph (1) of Article 241).

(Crimes Committed by Public Officials outside Japan)

Article 4 This Code shall apply to any public official of Japan who commits one of the following crimes outside the territory of Japan:

- (i) The crime prescribed under Article 101 (Assistance in Escape by a Guard) as well as an attempt thereof;
- (ii) The crime prescribed under Article 156 (Making of False Official Documents);
- (iii) The crimes prescribed under Article 193 (Abuse of Authority by Public Officials), paragraph (2) of Article 195 (Assault and Cruelty by Special Public Officials) and Articles 197 through 197-4 (Acceptance of Bribes; Acceptance on a Request; Acceptance in Advance; Passing of Bribes to a Third Party; Aggravated Acceptance; Acceptance after Resignation of Office; Acceptance for Exertion of Influence), and the crime of causing death or injury through commission of the crime prescribed under paragraph (2) of Article 195.

(Crimes Committed outside Japan Governed by a Treaty)

Article 4-2 In addition to the provisions of Article 2 through the preceding Article, this Code shall also apply to anyone who commits outside the territory of Japan those crimes prescribed under Part II which are governed by a treaty even if committed outside the territory of Japan.

## **Annex 8 - Self-Defense Forces Act (Act No. 165; 1954) (Excerpt)**

Article 96 (Authority of Persons Working Exclusively to Maintain Discipline within Units)

1. Self Defense Force (SDF) members who work exclusively in duties to maintain discipline within units will perform their duties as judicial police officers per the provisions of the

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Criminal Procedure Act (Act No. 130; 1948) with regard to crimes per provisions in government ordinances cited below, except those crimes prescribed in government ordinances

(1) Crimes committed by SDF members, personnel other than SDF members belonging to the Joint Staff Office, Ground Staff Office, Maritime Staff Office, Air Staff Office and units, etc., students, reserve SDF members and readiness reserve SDF members convened for training, and reserve SDF members convened for education and training (hereinafter, "SDF members, etc.," for the purposes of this item), crimes committed against SDF members, etc., during the performance of their duties, and other crimes committed by a person other than a SDF members, etc. concerning the duties of SDF members

(2) Crimes occurring on a vessel, in a building, in a barracks or in another facility used by the SDF

(3) Crimes against a facility or property owned or used by the SDF

2. SDF members performing duties as judicial police offer per the provisions of the preceding paragraph shall be considered a judicial police officer when of rank sergeant, petty officer second class, staff sergeant or above, while all others shall be a judicial policeman/woman.

3. The provisions of Article 7 of the Police Duties Execution Act apply to the execution of duties by SDF members in Paragraph (1). Personnel shall perform these duties faithfully in accordance with laws and regulations and must not avoid danger or responsibilities of duties nor leave duties without the permission of their commanding officer.

#### **Annex 9 - Code of Criminal Procedure (Article 247)**

Article 247 Prosecution shall be instituted by a public prosecutor.

#### **Q15**

#### **Annex 10 - Rules on Activities to Locate Missing Person (Article 6)\***

Article 6 (Receipt of Report About a Missing Person)

1. The chief of the police station with jurisdiction of the address or whereabouts of the missing person at the time they go missing shall receive a report about a missing person (hereinafter, "Missing Person Report") from persons cited in the following.

(1) Persons with parental authority or the guardian of the missing person (if the guardian is a corporation, the representative of the said corporation and persons engaged in administrative work at the said corporation for guardianship of the missing person);

(2) Spouse of the missing person (including persons who have yet to obtain a marriage certificate but are in a relationship with the missing person similar to a common-law spouse) and other relatives;

(3) Persons with custody and care of the missing person;

(4) Staff of a welfare office (an office engaged in welfare services as stipulated in the Social Welfare Act [Act No. 45; 1951) and other persons engaged in administrative work concerning

the welfare of the missing person; and

(5) In addition to persons cited in each item above, persons living together with the missing person and the employer or other persons with a close relationship socially with the said missing person.

2. The chief of the police station with jurisdiction of the address of the missing person or the address or whereabouts of the person attempting to submit the Missing Person Report shall be able to receive a Missing Person Report from those persons cited in each of the preceding items when it is deemed difficult for the person attempting to submit the Missing Report to submit the Missing Person Report to the chief of the police station per the preceding paragraph because they live in a faraway place or due to other circumstances.

3. The Missing Person Report shall be received according to the separately prescribed appended format of the Missing Person Report.

## **Q18**

### **Annex 11 - Domestic Laws and Regulations on Receiving Requests for Judicial Mutual Aid/Assistance from Other Countries**

1. Act on International Assistance in Investigation and Other Related Matters

Article 2 Assistance shall not be provided in any of the following circumstances:

- (i) When the offense for which assistance is requested is a political offense, or when the request for assistance is deemed to have been made with a view to investigating a political offense;
- (ii) Unless otherwise provided by a treaty, when the act constituting the offense for which assistance is requested would not constitute a crime under laws and regulations of Japan were it to be committed in Japan;
- (iii) With respect to a request for examination of a witness or provision of articles of evidence, unless otherwise provided by a treaty, when the requesting country does not clearly demonstrate in writing that the evidence is essential to the investigation.

2. Law relating to the Reciprocal Judicial Aid to be given at the request of Foreign Courts (Article 1-(2)) \*

Article 1-(2) The said judicial aid shall be rendered under the following conditions:

- 1. The request shall be made through the diplomatic channel.
- 2. The request for the service of papers shall be made in writing stating the name, nationality, and domicile or residence of the person on whom the papers are to be served.
- 3. The request to take evidence shall be made in writing stating the names of the parties to the litigation, the manner in which the evidence is to be taken, the name, nationality, and domicile or residence of the person to be examined, and the matters to be investigated. In regard to criminal matters, the request shall be accompanied by a statement of the essential

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facts of the case.

4. In case the latter of request and documents annexed thereto are not written in the Japanese language, translation thereof into Japanese shall be appended to the original.
5. The State to which the Court making the request belongs shall guarantee the payment of the expenses incurred in the execution of the letter of request.
6. The State to which the Court making the request belongs shall assure that it could render judicial aid in the same or similar matters if so requested by the Japanese Courts.

In case where treaties or other documents of similar nature provides otherwise than as mentioned in the preceding paragraph, such provisions shall prevail.

#### **Q20 (a)**

#### **Annex 12 – Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations, etc., and Survived-Threatening Situation (Excerpt)**

(Visits by representatives of protecting powers, etc.)

Article 80 (1) The prisoner of war camp commander shall, in cases where any of the persons listed in the following items request to visit detainees, permit detainees to receive the visit. In this case, no staff member of the prisoner of war camp attends a visit for a detainee:

- (i) Representatives of protecting powers;
- (ii) Representatives of designated Red Cross International Organization;
- (iii) Defense counsels in criminal cases of the detainee.

(2) The prisoner of war camp commander may, in cases of permitting visit pursuant to the provision of the preceding paragraph, make necessity minimum conditions for visit, such as date and time, and visiting site, pursuant to the an Ordinance of the Ministry of Defense, for not causing an extraordinary hindrance to the management and administration of the prisoner of war camp, only to the extent not to preclude the purpose of the visit.

(Other visitors)

Article 81 (1) In cases where a person other than those listed in all items of the paragraph (1) of the preceding Article requests to visit a detainee, if it is deemed that there is a special circumstance where the visit is necessary, and if it is deemed that there is no risk of causing hindrance to the management and operations of the prisoner of war camp by permitting such visit, then the prisoners of war camp commander may, in the manner set forth by the Ministry of Defense, permit the detainee to receive the visit.

(2) The staff member of the prisoner of war camp shall attend the visit set forth in the preceding paragraph to the extent the attendance is not inconsistent with the business purposes of the visitors.

(3) In the cases where the detainee or the visitor commits any act clearly deviating from, or

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makes any oral statement those contents clearly deviates from what is necessary to carry out the business to which the visit has permitted, a staff member of prisoners of war camp may either restrain the conducts or oral statements, or suspend the visit. In this case, the staff member may order the detainee or the visitor to withdraw from the visiting site, or may take any other necessary measures to suspend the visit.

(4) In cases where a visit is suspended pursuant to the provision of the preceding paragraph, if it is deemed inappropriate to continue the visit, then the prisoners of war camp commander may terminate the visit.

(Suppression, etc. of letters by contents)

Article 86 (1) In cases where it is found, as the result of the examination pursuant to the provision of paragraph (1) of preceding Article, that all or a part of a letter a detainee sends or receives falls under the cases set out under the following items, the prisoner of war camp commander may suppress the sending or receiving, or remove or erase the said parts of the letter:

- (i) Cases where the contents of the letter or a part thereof are the kind unable to be understood due to a use of specific kind of communication such as in code;
  - (ii) Cases where there is a risk of causing hindrance to the defense of Japan by sending or receiving the letter or a part thereof;
  - (iii) Cases where there is a risk of either infringing penal laws and regulations or causing infringement of penal laws and regulations by sending or receiving the letter or a part thereof;
  - (iv) Cases where there is a risk of causing escape and other disruption of discipline and order with regards to the treatment of the detainees by sending or receiving a letter or a part thereof;
  - (v) Cases where there are clearly false descriptions of the treatment of the detainees and other conditions with regards to the treatment of the detainees.
- (2) Notwithstanding the provisions in the preceding paragraph, with regard to either letters a detainee sends to or receives from the protecting powers or designated Red Cross International Organizations and whose contents include the matters under the authorities of those organizations prescribed in the provisions of the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not suppress their sending or receiving, or remove or erase the concerned part of the letter to authorities of those organizations for the reason that all or a part of letter pertaining to matters concerned fall under item (v) of the preceding paragraph.
- (3) Notwithstanding the provisions of the paragraph (1), with regard to either letters a detainee sends to or receives from a national or local government agency and whose contents include the matters under the authority of the agency and letters a detainee sends to or

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receives from an attorney who discharges the duty prescribed in paragraph (1) of Article 3 of the Attorney Act (Act No. 205 of 1949) with regard to the detainee, the prisoners of war camp commander shall not suppress their sending or receiving, or remove or erase the concerned part of them for the reasons that all or a part of letter pertaining to matters concerned fall under item (v) of paragraph (1).

(4) Notwithstanding the provisions of the paragraph (1), with regard to either letters prisoners' representatives or assistants to the prisoners' representatives send to or receive from a national or local government agency and that contain matters under the authority of the agency, and with regard to either letters prisoners' representatives or assistants to the prisoners' representatives send to or receive from protecting powers, designated Red Cross International Organization or designated assisting organizations and that contain matters under the authority of the prisoners' representatives, the assistants to the prisoners' representatives, protecting powers, designated Red Cross International Organization or designated assisting organizations prescribed in the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not suppress their sending or receiving.

(5) Notwithstanding the provisions of the paragraph (1), with regard to letters prisoners' representatives or assistants to the prisoners' representatives send to a national or local government agency and that contain matters under the authority of the agency, and with regard to letters either prisoners' representatives or assistants to the prisoners' representatives send to or receive from protecting powers, designated Red Cross International Organization or designated assisting organizations and that contain matters under the authority of the prisoners' representatives, the assistants to the prisoners' representatives, protecting powers, designated Red Cross International Organization or designated assisting organizations prescribed in the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not remove or erase the concerned part of letters for the reasons that all or a part of letter pertaining to matters concerned fall under item (v) of paragraph (1).

(Receiving Telegraphs, etc. of detainees)

Article 88 The telegraphs, etc. that the detainees receive or engage in shall be deemed to be letters that the detainees receive and the provisions of Article 83, paragraph (1) of Article 84, Article 85 and Article 86 shall apply thereof.

(Filing complaints with the Minister of Defense or the Chief of Staff)

Article 91 (1) A detainee may, in writing, file a complaint with the Minister of Defense or the Chief of Staff (i.e. Chief of Staff prescribed in Article 9 of Self-Defense Forces Act) designated by the Minister of Defense with regard to measures taken by the prisoner of war camp commander against him/her or any other treatment that he/she has received.

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- (2) Filling complaint set forth in the preceding paragraph shall be made by submitting the document, prepared and sealed by the detainee himself/herself, via the prisoner of war camp commander.
- (3) The prisoner of war camp commander shall not examine the document set forth in the preceding paragraph.
- (4) The prisoner of war camp commander shall not preclude a detainee to communicate with prisoners' representatives or representatives of protecting powers with regard to measures taken by prisoner of war camp commander against the detainee that he/she received.

## **Q20 (b)**

### **Annex 13 - Main Domestic Laws and Regulations on Guaranteeing Communication and Visitation**

#### **1. Criminal Procedures**

<Code of Criminal Procedure (Articles 39, 80, 81, 207-1)>

Article 39 The accused or the suspect in custody may, without any official being present, have an interview with, or send to or receive documents or articles from counsel or prospective counsel upon the request of a person entitled to appoint counsel (with regard to a person who is not a lawyer, this shall apply only after the permission prescribed in paragraph (2) of Article 31 has been obtained).

(2) With regard to the interview or the sending or receiving of documents or articles prescribed in the preceding paragraph, such measures may be provided by laws and regulations (including the Rules of Court; the same shall apply hereinafter) as are necessary to prevent the flight of the accused or the suspect, the concealment or destruction of evidence, or the sending or receiving of articles which may hinder safe custody.

(3) A public prosecutor, public prosecutor's assistant officer or judicial police personnel ("judicial police personnel" means both a judicial police personnel and a judicial constable; the same shall apply hereinafter) may, when it is necessary for investigation, designate the date, place and time of the interview or sending or receiving of documents or articles prescribed in paragraph (1) only prior to the institution of prosecution; provided, however, that such designation shall not unduly restrict the rights of the suspect to prepare for defense.

Article 80 The accused under detention may, subject to relevant laws and regulations, have an interview with, or send to or receive documents or articles from persons other than those prescribed in paragraph (1) of Article 39. The same shall apply to an accused who is detained in a prison by a subpoena.

Article 81 The court may, when there is probable cause to suspect that the accused under detention may flee or conceal or destroy evidence, upon the request of a public prosecutor or

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ex officio, prohibit the accused from having an interview with persons other than those prescribed in paragraph (1) of Article 39, or censor the documents or articles sent or received by the accused, prohibit the sending or receiving of them or seize them; provided, however, that food may not be subject to the prohibition on sending or receiving or seizure.

Article 207 The judge who has been requested detention pursuant to the provision of the preceding three Articles shall have the same authority as a court or a presiding judge regarding the disposition thereof; provided, however, that this shall not apply to bail.

## 2. Detainees of Penal Institutions

<Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Article 110-148)>

### Section 11 Contact with the Outside World

#### Subsection 1 Attention with Regard to Sentenced Persons

Article 110 In permitting, prohibiting, suppressing, or imposing restrictions on a sentenced person's contact with the outside world (i.e. visits, correspondence, and the communications prescribed in Article 146, paragraph (1); hereinafter the same applies in this Article), attention must be paid to the fact that appropriate contact with the outside world is instrumental to their reformation and rehabilitation, and to their smooth re-integration into society.

#### Subsection 2 Visits

##### Division 1 Sentenced Persons

(Visitors)

Article 111 (1) When any of the persons set forth in the following items requests to visit a sentenced person (except those classified as a detainee awaiting a judicial decision; hereinafter the same applies in this Division), wardens of penal institutions are to permit the sentenced person to receive the visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section:

- (i) persons who are a relative of the sentenced person;
- (ii) persons who require to visit in order to carry out business personally, legally, or occupationally important in nature in relation to the sentenced person, such as reconciliation of marital relations, pursuance of a lawsuit, or maintaining a business;
- (iii) persons whose visit is deemed instrumental to the reformation and rehabilitation of the sentenced person, such as a person associated with rehabilitation services to and guardianship



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of the sentenced person or a person who intends to employ the sentenced person after their release.

(2) When a person other than those set forth in the items of the preceding paragraph requests to visit a sentenced person, if it is deemed that there is a circumstance where the visit is necessary for maintaining a good relationship with the person or for any other reason, and if it is deemed that there is no risk of causing either disruption of discipline and order in the penal institution or hindrance to the adequate pursuance of correctional treatment for the sentenced person, then wardens of penal institutions may permit the sentenced person to receive the visit.

#### (Attendance and Recording during Visits)

Article 112 When it is deemed necessary for maintaining discipline and order in the penal institution or adequate pursuance of correctional treatment of a sentenced person, or for any other reasons, wardens of penal institutions may have designated staff members attend visits to the sentenced person or make an audio or video recording of it; provided, however, that this does not apply where the sentenced person receives a visit from any of the persons set forth in the following items, if there are special circumstances where it is deemed likely to cause disruption to discipline and order in the penal institution:

- (i) national or local government officials who conduct an inquiry into the measures taken by wardens of penal institutions towards the sentenced person, or any other treatment the sentenced person received;
- (ii) an attorney who discharges the duty prescribed in Article 3, paragraph (1) of the Attorney Act (Act No. 205 of 1949) with regard to the measures taken by wardens of penal institutions toward the sentenced person, or any other treatment the sentenced person received.

#### (Suspension and Termination of Visits)

Article 113 (1) In cases falling under any of the following items, a staff member of the penal institution may either restrain the action or oral statements, or suspend the visit. In this case, the staff member may order the sentenced person or the visitor to withdraw from the visiting site, or may take any other necessary measures to suspend the visit:

- (i) cases where the sentenced person or the visitor commits any act falling under either of acts set out under the following sub-items (a) or (b):
  - (a) an act breaching the restrictions stipulated pursuant to the provisions of paragraph (1) of the following Article;
  - (b) an act detrimental to discipline and order in the penal institution;
- (ii) if the sentenced person or the visitor makes any oral statement and its content falls under any of the following sub-items (a) through (e):

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- (a) content which a staff member of the penal institution is unable to comprehend due to the use of specific kinds of communication such as code;
  - (b) content which conspire to, incite, or induce the commission of a crime;
  - (c) content likely to disrupt discipline and order in the penal institution;
  - (d) content likely to hinder adequate pursuance of correctional treatment of the sentenced person;
  - (e) in cases of a visit permitted by due to the visit being necessary in order to carry out specific business, and where the content of the visit clearly deviates from what is required to carry out the business.
- (2) When a visit is suspended pursuant to the provisions of the preceding paragraph, if it is deemed inappropriate to continue the visit, then wardens of penal institutions may terminate the visit.

#### (Restrictions on Visits)

Article 114 (1) With regard to the visits a sentenced person receives, wardens of penal institutions may, pursuant to Ministry of Justice Order, impose restrictions necessary for either maintaining discipline and order or the management and administration of the penal institution as to the number of visitors, the visiting site, date and time, duration and frequency of visits, and other conditions of visits.

(2) When wardens of penal institutions impose restriction on the frequency of visits pursuant to the provisions of the preceding paragraph, the frequency must be not less than twice per month.

### Division 2 Detainees Awaiting a Judicial Decision

#### (Visitors)

Article 115 When a person requests to visit a detainee awaiting a judicial decision (except those classified as either a sentenced person or an inmate sentenced to death; hereinafter the same applies in this Division), wardens of penal institutions are to permit the detainee awaiting a judicial decision to receive a visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section; provided, however, that the foregoing does not apply where receiving a visit is not permitted by the provisions of the Code of Criminal Procedure.

#### (Attendance and Recording during Visits Other than Those from Defense Counsels, etc.)

Article 116 (1) Wardens of penal institutions are to have a designated staff member attend any of the visits to detainees awaiting a judicial decision, other than visits by a defense counsel, etc., or have the staff member make an audio or video recording of it; provided,

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however, when it is deemed that there is risk of neither disrupting discipline and order in the penal institution nor suppressing evidence, wardens of penal institutions may opt not to enforce the attendance or sound and video recording (referred to as "attendance, etc." in the following paragraph).

(2) Notwithstanding the provisions of the preceding paragraph, wardens of penal institutions must not enforce the attendance, etc. at a visit to a detainee awaiting a judicial decision of any of the persons set forth in Article 112, except for when there are special circumstances in which it is deemed likely to either disrupt discipline and order in the penal institution or lead to the destruction of evidence of a crime.

#### (Suspension and Termination on Visits)

Article 117 The provisions of Article 113 (except for paragraph (1), item (ii), sub-item (e)) apply mutatis mutandis to the visits an unsentenced inmate receives. In this case, the phrase "under the following items" in the same paragraph is deemed to be replaced with "under the following items (limited to item (i), sub-item (b) in cases of a visit by a defense counsel, etc.)", the phrase "hinder adequate pursuance of correctional treatment for the sentenced person" in item (ii), sub-item (d) of the same paragraph is deemed to be replaced with "lead to the destruction of evidence of a crime."

#### (Restrictions on Visits)

Article 118 (1) The date and time of visits to an detainee awaiting a judicial decision by the defense counsel, etc. is during working hours of the penal institution for the day except Sunday and other days specified by Cabinet Order.

(2) The number of visitors in a visit prescribed in the preceding paragraph is three or less.

(3) Even when a defense counsel, etc. requests to visit a detainee awaiting a judicial decision not on the basis of the preceding two paragraphs, wardens of penal institutions are to permit the detainee awaiting a judicial decision the receiving of visit except for when it does hinder the management and administration of the penal institution.

(4) Wardens of penal institutions may, pursuant to Ministry of Justice Order, impose restrictions on the visiting site that are necessary for either maintaining discipline and order or the management and administration of the penal institution as to the visit prescribed in paragraph (1).

(5) The provisions of Article 114 apply mutatis mutandis to the visit to a detainee awaiting a judicial decision by a person other than a defense counsel, etc. In this case, the phrase "twice per month" in paragraph (2) of the same Article is deemed to be replaced with "once per day."

### Division 3 Sentenced Persons with Status as a Detainee Awaiting a Judicial Decision

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Article 119 The provisions of Articles 111, 113, 114, and 116, and paragraphs (1) through (4) of the preceding Article apply mutatis mutandis to the visits received by a sentenced person with status as a detainee awaiting a judicial decision. In this case, the phrase "the next Section" in Article 111, paragraph (1) is deemed to be replaced with "the next Section and where receiving a visit is not permitted by the provisions of the Code of Criminal Procedure"; the phrase "receive the visit" in paragraph (2) of the same Article is deemed to be replaced with "receive the visit except for when it is not permitted by the provisions of the Code of Criminal Procedure"; the phrase "under the following items" in Article 113, paragraph (1) is deemed to be replaced with "under the following items (limited to item (i), sub-item (b) in cases of a visit by a defense counsel, etc.)"; the term "hinder" in item (ii), sub-item (d) of the same paragraph is deemed to be replaced with "cause the destruction of evidence of a crime or hinder"; and the term "receives" in Article 114, paragraph (1) is deemed to be replaced with "receives (except for visits by a defense counsel, etc.)."

#### Division 4 Inmates Sentenced to Death

##### (Visitors)

Article 120 (1) When any of the persons set forth in the following items requests to visit an inmate sentenced to death (except those classified as a detainee awaiting a judicial decision; hereinafter the same applies in this Division), wardens of penal institutions are to permit the inmate sentenced to death the receiving of visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section:

- (i) a person who is a relative of the inmate sentenced to death;
- (ii) a person who requires a visit in order to carry out business in relation to a personally, legally, or occupationally important concern of the inmate sentenced to death, such as reconciliation of marital relations, pursuance of a lawsuit, or maintaining a business;
- (iii) a person whose visit is deemed instrumental in helping the inmate sentenced to death maintain peace of mind.

(2) When a person other than those set forth in the items of the preceding paragraph requests to visit an inmate sentenced to death, if it is deemed that there are circumstances where the visit is necessary for maintaining a good relationship with the person or for any other reasons, and if it is deemed that there is no risk of disrupting discipline and order in the penal institution, then wardens of penal institutions may permit the inmate sentenced to death to receive a visit.

##### (Attendance and Recording during Visits)

Article 121 Wardens of penal institutions are to have a designated staff member attend visits to an inmate sentenced to death, or make an audio or video recording of them; provided,

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however, that this does not apply when there are circumstances to be concluded that having no attendance or audio or video recording is appropriate in order to protect the interests of the inmate sentenced to death as arrangements for a lawsuit, and if such conclusion is deemed appropriate.

#### (Suspension and Termination of Visits)

Article 122 The provisions of Article 113 (except for paragraph (1), item (ii), sub-item (d)) and Article 114 apply mutatis mutandis to the visits received by an inmate sentenced to death. In this case, the phrase "twice per month" in paragraph (2) of the same Article is deemed to be replaced with "once per day."

#### Division 5 Inmates Sentenced to Death with Status as a Detainee Awaiting a Judicial Decision

Article 123 The provisions of Articles 113, 118, 120, and 121 apply mutatis mutandis to the visits received by an inmate sentenced to death with status as a detainee awaiting a judicial decision. In this case, the phrase "under the following items" in Article 113, paragraph (1) is deemed to be replaced with "under the following items (limited to item (i), sub-item (b) in cases of a visit by a defense counsel, etc.)"; the phrase "hinder adequate pursuance of correctional treatment for the sentenced person" in item (ii), sub-item (d) of the same paragraph is deemed to be replaced with "cause the destruction of evidence of a crime"; the phrase "the next Section" in Article 120, paragraph (1) is deemed to be replaced with "the next Section and where receiving a visit is not permitted by the provisions of the Code of Criminal Procedure"; the phrase "receive the visit" in paragraph (2) of the same Article is deemed to be replaced with "receive the visit except for when it is not permitted by the provisions of the Code of Criminal Procedure"; and the term "visit" in Article 121 is deemed to be replaced with "visit (except those by a defense counsel, etc.)."

#### Division 6 Unclassified Inmates

##### (Visitors)

Article 124 When a person requests to visit an unclassified inmate, wardens of penal institutions are to permit the unclassified inmate to receive a visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section.

##### (Attendance during Visits to Unclassified Inmates)

Article 125 The provisions of Articles 112, 113 (except paragraph (1), item (ii), sub-items (d) and (e)), and 114 apply mutatis mutandis to the visits an unclassified inmate receives. In

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this case, the phrase "adequate pursuance of correctional treatment of a sentenced person, or for any other" in Article 112, paragraph (1) is deemed to be replaced with "for any other"; the phrase "twice per month" in Article 114, paragraph (2) is deemed to be replaced with "once per day."

### Subsection 3 Correspondence

#### Division 1 Sentenced Persons

##### (Letters Permitted to Be Sent or Received)

Article 126 Wardens of penal institutions are to permit a sentenced person (except those classified as a detainee awaiting a judicial decision; hereinafter the same applies in this Division) to be Sent and Received letters to and from another person, except for when this is prohibited by the provisions of this Division, Article 148, paragraph (3), and the next Section.

##### (Examination of Letters)

Article 127 (1) When it is deemed necessary for maintaining discipline and order in the penal institution or for the adequate conducting of correctional treatment for a sentenced person, or for any other reasons, wardens of penal institutions may have a designated staff member examine the letters the sentenced person sends and receives.

(2) With regard to the letters set out under the following items, designated staff members are to examine them to the extent necessary for ascertaining that the letters fall under any of the following items; provided, however, concerning the letters set forth in item (iii), this does not apply where there are special circumstances in which it is deemed likely to disrupt discipline and order in the penal institution:

- (i) letters a sentenced person receives from a national or local government agency;
- (ii) letters a sentenced person sends to a national or local government agency which conducts an inquiry into the measures taken by wardens of penal institutions toward the sentenced person, or any other treatment the sentenced person received;
- (iii) letters a sentenced person sends to or receives from an attorney (including a legal professional corporation, hereinafter the same applies in this Subsection) who conducts the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the measures taken by wardens of penal institutions toward the sentenced person, or any other treatment the sentenced person received.

##### (Prohibition of Correspondence)

Article 128 With regard to the persons (except for relatives of the sentenced person) who have criminal tendencies or are likely to either disrupt discipline and order in the penal

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institution or hinder the adequate pursuance of correctional treatment for a sentenced person by receiving from or sending correspondence to the sentenced person, wardens of penal institutions may prohibit the sentenced person from sending to or receiving correspondence from them; provided, however, that this does not apply where the sentenced person sends to or receives correspondence from the persons in order to carry out business of personally, legally, or occupationally important concern to the sentenced person, such as reconciliation of marital relations, pursuance of a lawsuit, or maintaining a business.

#### (Prohibition of Letters by Their Content)

Article 129 (1) When it is found, as the result of the examination pursuant to the provisions of Article 127, that all or a part of a letter a sentenced person sends or receives falls under the following items, wardens of penal institutions may prohibit the sending or receiving of letters, or remove or erase the relevant part of the letter. The same applies where all or a part of the letter set forth in paragraph (2) of the same Article is found, in the course of ascertaining that the letter falls under the items thereunder, to fall under the following items:

- (i) cases where a staff member of the penal institution is unable to understand the content of the letter or a part thereof due to a use of specific kinds of communication such as a codes;
- (ii) cases where there is a risk of either infringing on penal laws and regulations or causing infringement of penal laws and regulations by sending or receiving the letter or a part thereof;
- (iii) cases where there is a risk of disrupting discipline and order in the penal institution by sending or receiving the letter or a part thereof;
- (iv) cases where there is a risk of either causing the addressee considerable unease or inflicting a loss to the addressee because the content of the letter or a part thereof include intimidating descriptions or clearly false descriptions;
- (v) cases where the content of the letter or a part thereof include insulting descriptions of the addressee;
- (vi) cases where there is a risk of hindering adequate pursuance of correctional treatment for the sentenced person by sending or receiving the letter or a part thereof.

(2) Notwithstanding the provisions of the preceding paragraph, with regard to either letters a sentenced person sends to or receives from a national or local government agency and whose content includes the matters under the authority of the agency, or letters a sentenced person sends to or receives from an attorney who discharges the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the sentenced person, wardens of penal institutions may prohibit them being sent or received, or remove or erase the relevant part of them only when all or a part of the letter falls under any of items (i) through (iii) of the preceding paragraph.

#### (Restrictions on Letters)

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Article 130 (1) Wardens of penal institutions may, pursuant to Ministry of Justice Order, impose restrictions necessary for the management and administration of the penal institution upon the manner of preparing letters, the date and time making a claim to send letters, the number of letters a sentenced person may make a claim to send, and the procedures for sending to or receiving letters from a sentenced person.

(2) When wardens of penal institutions impose restrictions on the number of letters a sentenced person may make a claim to send pursuant to the provisions of the preceding paragraph, the number must be not less than four per month.

(Expenses for Sending Letters)

Article 131 When a sentenced person is unable to bear the cost for sending letters the cost is to be borne by the National Treasury, if the warden of the penal institution finds it appropriate in light of the purpose of sending the letter.

(Handling of Prohibited Letters, etc.)

Article 132 (1) Wardens of penal institutions are to retain letters which they prohibit or block from being sent or received, pursuant to the provisions of Article 128 or 129 or Article 148, paragraph (3), or are to retain the removed part of letters which they remove pursuant to the provisions of Article 129.

(2) When wardens of penal institutions erase parts of descriptions in a letter pursuant to the provisions of Article 129, they are to make a copy of the erased part and retain it.

(3) Wardens of penal institutions are to deliver all or a part of the letter or the copy (hereinafter referred to as "prohibited letter, etc." in this Chapter) they retain pursuant to the provisions of the preceding two paragraphs to the sentenced person upon their release.

(4) If a sentenced person has died, wardens of penal institutions are to, pursuant to Ministry of Justice Order, deliver the prohibited letter, etc. to the bereaved family, etc. in accordance with a claim for its delivery.

(5) Notwithstanding the provisions of the preceding two paragraphs, when there is a risk of hindering maintaining discipline and order in the penal institution by delivering the prohibited letter, etc., wardens of penal institutions must not deliver them. The same applies to the following cases where there is a risk of hindering maintaining discipline and order in the penal institution by delivering the prohibited letter, etc.:

(i) cases where a released sentenced person requests delivery of the prohibited letter, etc. after their release;

(ii) cases where a sentenced person who falls under any of the items of Article 54, paragraph (1) requests delivery of the prohibited letter, etc.

(6) The provisions of Article 53, paragraph (1), Article 54, paragraph (1), Article 55, paragraphs (2) and (3) apply mutatis mutandis to prohibited letters, etc. (except those not



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being delivered pursuant to the provisions of the preceding paragraph) pertaining to a sentenced person. In this case, the phrase "claim set forth in paragraph (1)" in paragraph (3) of the same Article is deemed to be replaced with "claim set forth in Article 132, paragraph (4)."

(7) Prohibited letters, etc. not being delivered pursuant to the provisions of paragraph (5) are to be allocated to the National Treasury on the day on which a period of three years starting either from the day of the release or the death of the sentenced person expires, or from the day on which the sentenced person has fallen under any of the items of Article 54, paragraph (1).

#### (Documents and Drawings Prepared by Sentenced Persons)

Article 133 When a sentenced person makes a claim to deliver a document or a drawing (except for letters) which they prepared to another person, wardens of penal institutions may conduct an examination or any take other measures in accordance with those for letters sent by sentenced persons.

### Division 2 Detainee Awaiting a Judicial Decision

#### (Letters Permitted to Be Sent or Received)

Article 134 Wardens of penal institutions are to permit detainees awaiting a judicial decision (except those classified as either a sentenced person or an inmate sentenced to death; hereinafter the same applies in this Division) to be Sent and Received letters to and from another person, except for when it is prohibited pursuant to the provisions of this Division, Article 148, paragraph (3), or the next Section; provided, however, that this does not apply where sending or receiving letters is not permitted by the provisions of the Code of Criminal Procedure.

#### (Examination of Letters)

Article 135 (1) Wardens of penal institutions are to have a designated staff member examine letters a detainee awaiting a judicial decision sends and receives.

(2) With regard to the letters set out under the following items, a designated staff member is to examine them to the extent necessary for ascertaining that the letters fall under any of the following items; provided, however, concerning the letters set forth in item (iii), that this does not apply where there are special circumstances in which it is deemed likely to either disrupt of discipline and order in the penal institution or suppress evidence:

- (i) letters a detainee awaiting a judicial decision receives from a defense counsel, etc.;
- (ii) letters a detainee awaiting a judicial decision receives from a national or local government agency;
- (iii) letters a detainee awaiting a judicial decision receives from an attorney who discharges the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the measure

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taken by wardens of penal institutions toward the detainee awaiting a judicial decision, or any other treatment the detainee awaiting a judicial decision received.

(3) When it is deemed that there is no risk of either disrupting discipline and order in the penal institution or suppressing evidence, wardens of penal institutions may, notwithstanding the provisions of the preceding two paragraphs, not opt to command the examination set forth in paragraph (1).

#### (Prohibition of Letters by Their Content)

Article 136 The provisions of Articles 129 through 133 apply *mutatis mutandis* to the letters a detainee awaiting a judicial decision sends or receives. In this case, the term "Article 127" in ) Article 129, paragraph (1) is deemed to be replaced with "Article 135"; the phrase "hindering adequate pursuance of correctional treatment for the sentenced person" in item (vi) of the same paragraph is deemed to be replaced with "suppressing evidence"; the phrase "through item (iii)" in paragraph (2) of the same Article is deemed to be replaced with "through item (iii), or item (vi)"; the phrase "the number of letters" in Article 130, paragraph (1) is deemed to be replaced with "the number of letters (except those for a defense counsel, etc.)"; the phrase "four per month" in paragraph (2) of the same Article is deemed to be replaced with "one per day"; the phrase "Article 128 or 129" in Article 132, paragraph (1) is deemed to be replaced with "Article 129"; the phrase "any of the items of Article 54, paragraph (1)" in paragraph (5), item (ii) and paragraph (7) of the same Article is deemed to be replaced with "Article 54, paragraph (1), item (i) or (ii)"; and the phrase "Article 54, paragraph (1)" in paragraph (6) of the same Article is deemed to be replaced with "Article 54, paragraph (1) (except for item (iii))."

### Division 3 Sentenced Persons with Status as a Detainee Awaiting a Judicial Decision

#### (Letters Permitted to Be Sent or Received)

Article 137 Wardens of penal institutions are to permit a sentenced person with status as an detainee awaiting a judicial decision to be Sent and Received letters to and from another person, except for when it is prohibited pursuant to the provisions of this Division, Article 148, paragraph (3), or the next Section; provided, however, that this does not apply where sending or receiving letters is not permitted by the provisions of the Code of Criminal Procedure.

#### (Prohibition of Correspondence)

Article 138 The provisions of Articles 128 through 133 and Article 135 apply *mutatis mutandis* to the letters which a sentenced person with status as a detainee awaiting a judicial decision sends or receives. In this case, the term "Article 127" in Article 129, paragraph (1) is deemed to be replaced with "Article 135 as applied *mutatis mutandis* pursuant to Article 138";

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the term "hindering" in item (vi) of the same paragraph is deemed to be replaced with "suppressing evidence or hindering"; the phrase "of the preceding paragraph" in paragraph (2) of the same Article is deemed to be replaced with "of the preceding paragraph or is likely to lead to the destruction of evidence of a crime"; the phrase "the number of letters" in Article 130, paragraph (1) is deemed to be replaced with "the number of letters (except those for a defense counsel, etc.)"; the phrase "any of the items of Article 54, paragraph (1)" in Article 132, paragraph (5), item (ii) and paragraph (7) is deemed to be replaced with "Article 54, paragraph (1), item (i) or (ii)"; and the phrase "Article 54, paragraph (1)" in paragraph (6) of the same Article is deemed to be replaced with "Article 54, paragraph (1) (except for item (iii))."

#### Division 4 Inmates Sentenced to Death

##### (Letters Permitted to Be Sent or Received)

Article 139 (1) Wardens of penal institutions are to permit an inmate sentenced to death (except those classified as a detainee awaiting a judicial decision; hereinafter the same applies in this Division) to send or receive letters under the following items except for when it is prohibited by the provisions of this Division, Article 148, paragraph (3), and the next Section:

- (i) letters the inmate sentenced to death sends to or receives from their relative;
- (ii) letters which the inmate sentenced to death sends and receives in order to carry out business of personal, legal, or occupationally-important concern, such as reconciliation of marital relations, pursuance of a lawsuit, or maintaining a business;
- (iii) letters deemed to be instrumental in helping the inmate sentenced to death maintain peace of mind.

(2) Wardens of penal institutions may permit an inmate sentenced to death to send or receive letters other than those set forth in the preceding paragraph when it is deemed that there are circumstances where the sending or receiving is necessary for maintaining a good relationship with the addressee, or for any other reasons, and if it is deemed that there is no risk of disrupting discipline and order in the penal institution.

##### (Examination of Letters)

Article 140 (1) Wardens of penal institutions are to have a designated staff member examine the letters which an inmate sentenced to death sends or receives.

(2) The provisions of Article 127, paragraph (2) apply mutatis mutandis to the examination set forth in the preceding paragraph.

##### (Blocking of Letters by Their Content)

Article 141 The provisions of Article 129 (except for paragraph (1), item (vi)) and Articles

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130 through 133 apply mutatis mutandis to the letters an inmate sentenced to death sends or receives. In this case, the term "Article 127" in Article 129, paragraph (1) is deemed to be replaced with "Article 140"; the phrase "four per month" in Article 130, paragraph (2) is deemed to be replaced with "one per day"; the phrase "Article 128 or 129" in Article 132, paragraph (1) is deemed to be replaced with "Article 129"; the phrase "any of the items of Article 54, paragraph (1)" in paragraph (5), item (ii) and paragraph (7) of the same Article is deemed to be replaced with "Article 54, paragraph (1), item (i) or (ii)"; and the term "Article 54, paragraph (1)" in paragraph (6) of the same Article is deemed to be replaced with "paragraph (1) (except for Article 54, item (iii))."

#### Division 5 Inmates Sentenced to Death with Status as a Detainee Awaiting a Judicial Decision

Article 142 The provisions of Articles 129 through 133, Article 135, paragraphs (1) and (2), and Article 139 apply mutatis mutandis to the letters which an inmate sentenced to death with status as a detainee awaiting a judicial decision sends or receives. In this case, the term "Article 127" in Article 129, paragraph (1) is deemed to be replaced with "Article 135, paragraphs (1) and (2) as applied mutatis mutandis pursuant to Article 142"; the phrase "hindering adequate pursuance of correctional treatment for the sentenced person" in item (vi) of the same paragraph is deemed to be replaced with "leading to the destruction of evidence of a crime"; the phrase "through item (iii)" in paragraph (2) of the same Article is deemed to be replaced with "through item (iii), or item (vi)"; the phrase "the number of letters" in Article 130, paragraph (1) is deemed to be replaced with "the number of letters (except those for a defense counsel, etc.)"; the phrase "four per month" in paragraph (2) of the same Article is deemed to be replaced with "one per day"; the phrase "Article 128 or 129" in Article 132, paragraph (1) is deemed to be replaced with "Article 129"; the phrase "any of the items of Article 54, paragraph (1)" in paragraph (5), item (ii) and paragraph (7) of the same Article is deemed to be replaced with "Article 54, paragraph (1), item (i) or (ii)"; and the phrase "Article 54, paragraph (1)" in paragraph (6) of the same Article is deemed to be replaced with "Article 54, paragraph (1) (except for item (iii))"; the phrase "in this Division" in Article 139, paragraph (1) is deemed to be replaced with "in the next Division," the phrase "the next Section" is deemed to be replaced with "the next Section and where it is not permitted by the provisions of the Code of Criminal Procedure," and the phrase "may permit" in paragraph (2) of the same Article is deemed to be replaced with "may, except for when it is not permitted by the provisions of the Code of Criminal Procedure, permit."

#### Division 6 Unclassified Inmates

(Letters Permitted to Be Sent of Received)

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Article 143 Wardens of penal institutions are to permit unclassified inmates to be Sent and Received letters to and from another person, except for when it is prohibited pursuant to the provisions of this Division, Article 148, paragraph (3), or the next Section.

(Examination of Letters)

Article 144 The provisions of Article 127, Article 129 (except for paragraph (1), item (vi)), and Articles 130 through 133 apply mutatis mutandis to the letters an unclassified inmate sends or receives. In this case, the phrase "adequate pursuance of correctional treatment for a sentenced person, or for any other" in Article 127, paragraph (1) is deemed to be replaced with "any other"; the phrase "four per month" in Article 130, paragraph (2) is deemed to be replaced with "one per day"; the phrase "Article 128 or 129" in Article 132, paragraph (1) is deemed to be replaced with "Article 129"; the phrase "any of the items of Article 54, paragraph (1)" in paragraph (5), item (ii) and paragraph (7) of the same Article is deemed to be replaced with "Article 54, paragraph (1), item (i) or (ii)"; and the phrase "Article 54, paragraph (1)" in paragraph (6) of the same Article is deemed to be replaced with "Article 54, paragraph (1) (except for item (iii))."

Subsection 4 Visits and Correspondence of Inmates who are Defendants or Suspects

Article 145 Visits to an inmate who is a defendant or a suspect (except those classified as a detainee awaiting a judicial decision) by a defense counsel, etc. and correspondence between the inmate and the defense counsel, etc. are governed by the same rules as the provisions (except for Article 129, paragraph (1), item (vi) as applied mutatis mutandis pursuant to Article 136) with regard to visits to a detainee awaiting a judicial decision by a defense counsel, etc. and correspondence between the detainee awaiting a judicial decision and the defense counsel, etc. prescribed in the Division 2 of Subsection 2 or Division 2 of the preceding Subsection.

Subsection 5 Communications by Telephone and Other Means of Telecommunication

(Communications by Telephone and Other Means of Telecommunication)

Article 146 (1) When a sentenced person (except those classified as a detainee awaiting a judicial decision; hereinafter the same applies in this Subsection) falls under the cases specified by Ministry of Justice Order, such as being placed in an open-type institution pursuant to the provisions of Article 88, paragraph (2), if it is deemed instrumental either for their reformation and rehabilitation or for their smooth re-integration into society, or if it is deemed appropriate, the wardens of penal institutions may permit them to communicate by telephone or by other means of telecommunication provided for by Cabinet Order.

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(2) The provisions of Article 131 apply mutatis mutandis to the communication set forth in the preceding paragraph.

#### (Examination of Communications)

Article 147 (1) When it is deemed necessary for maintaining discipline and order in the penal institution or for adequate pursuance of correctional treatment for the sentenced person, or for any other reasons, wardens of penal institutions may have a designated staff member monitor the communications set forth in paragraph (1) of the preceding Article or make a record of the content of the communication in order to examine it.

(2) The provisions of Article 113, paragraph (1) (except for item (i), sub-item (a)) and paragraph (2) apply mutatis mutandis to the communication set forth in paragraph (1) of the preceding Article.

#### Subsection 6 Visits, etc. in Foreign Languages

Article 148 (1) When an inmate or other parties of visits, etc. (i.e. visits and the communication prescribed in Article 146, paragraph (1); hereinafter the same applies in this Article) do not have a sufficient command of Japanese, wardens of penal institutions are to permit visits, etc. in a foreign language. In this case, if interpretation or translation is necessary in order to examine the oral statements or communication, wardens of penal institutions may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(2) When an inmate or other party in a correspondence does not have a sufficient command of Japanese, or when it is deemed appropriate, wardens of panel institutions are to permit the sending or receiving of letters in a foreign language. In this case, if translation is necessary in order to examine the contents of the letter, wardens of penal institutions may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(3) Visits, etc. or correspondence are not permitted when the inmate does not bear the expenses prescribed in the preceding two paragraphs.

#### 3. Juvenile Training School Resident (inmate)

<Juvenile Training Schools Act (Article 91-111)>\*

#### Chapter XIII Contact with the Outside World

##### Section 1 Attention

Article 91 In permitting, prohibiting, suppressing, or imposing restrictions on an inmate's contact with the persons outside the juvenile training school (meaning visits, correspondence, and the communication referred to in Article 106, paragraph (1); hereinafter the same applies

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in this Article) pursuant to the provisions of this Chapter, attention must be paid to the fact that appropriate contact with the persons outside the juvenile training school contributes to their rehabilitation and smooth reintegration into society.

## Section 2 Visits

### (Visitors)

Article 92 (1) If any of the persons set forth in the following items request to visit an inmate, the superintendent of the juvenile training school is to permit the inmate to receive the visit except if it is prohibited pursuant to the provisions of Article 109, paragraph (3):

(i) the custodian, etc. of the inmate;

(ii) persons whose visits are necessary in order to carry out a business that is significantly important for the status, legal situation, education or occupation of the inmate, such as the reconciliation of marital relations, pursuance of lawsuit or preparation for school or employment;

(iii) persons whose visits are likely to contribute to the rehabilitation of the inmate, such as a person related to the rehabilitation and custody of the inmate.

(2) If a person other than those set forth in the items of the preceding paragraph requests to visit an inmate, and the superintendent of the juvenile training school finds there to be circumstances under which the visit is necessary for receiving the assistance necessary for inmates to live a sound social life or for any other reasons, and that there is no risk of causing the disruption of discipline and order in the juvenile training school or hindrance to the adequate pursuance of correctional education for the inmates, the superintendent of the juvenile training school may permit the inmate to receive the visit.

### (Observation of Visits, etc.)

Article 93 (1) The superintendent of the juvenile training school is to appoint officials and have them observe visits (excluding visit by attendants, etc. (meaning attendant or, an attorney who intends to become an attendant upon the request of inmate or custodian; the same applies hereinafter) or by defense counsels, etc.) to the inmate or make audio or video recording of it; provided, however, that if it is deemed that there is risk of either disrupting discipline and order in the juvenile training school or hindrance to the adequate pursuance of correctional education, the superintendent of the juvenile training school may elect not to have officials observe or record audio and video of the visit (referred to as " observation, etc." in the following paragraphs).

(2) Notwithstanding the provisions of the preceding paragraph, the superintendent of a juvenile training school must not have officials observe, etc. a visit to an inmate of any of the following persons, except if there are special circumstances under which it must be found that

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it is likely to disrupt discipline and order in the juvenile training school:

(i) national or local government official conducting an inquiry into the measures taken by the superintendent of the juvenile training school toward the inmate, or any other treatment the inmate received;

(ii) attorney performing the duty under Article 3, paragraph (1) of the Attorney Act (Act No. 205 of 1949) with regard to the measures taken by the superintendent of the juvenile training school toward the inmate, or any other treatment the inmate person received.

#### (Suspension and Termination of Visits)

Article 94 (1) In cases falling under any of the following items (limited to (b) of item (i) in cases of visits by an attendant, etc. or a defense counsel, etc.), an official of the juvenile training school may either control the conducts or oral statements, or suspend the visit. In this case, the official may order the inmate or the visitor to withdraw from the visiting site, or may take any other necessary measures to suspend the visit:

(i) if the inmate or the visitor engages in conduct falling under any the following sub-items (a) or (b):

(a) conduct breaching the restrictions under the provisions of paragraph (1) of the following Article;

(b) conduct detrimental to discipline and order in the juvenile training school;

(ii) if the inmate or the visitor makes any oral statement that falls under any of the following sub-items (a) through (e):

(a) oral statement that the official of the juvenile training school is unable to comprehend due to use of specific kinds of communication such as a code;

(b) oral statement that incites, or induces a crime or delinquency;

(c) oral statement that is likely to disrupt discipline and order in the juvenile training school;

(d) oral statement that is likely to hinder adequate pursuance of correctional education for the inmate;

(e) in case of visit permitted due to the necessity of carrying out a specific business, oral statements that clearly deviates from the business to be carried out.

(2) If a visit is suspended pursuant to the provisions of the preceding paragraph, and the superintendent of the juvenile training school finds it inappropriate to continue the visit, the superintendent may terminate the visit.

#### (Visit Restriction)

Article 95 (1) With regard to the visit to an inmate (excluding visits by attendants, etc. or defense counsels, etc.), the superintendent of a juvenile training school may, pursuant to Ministry of Justice Order, impose restrictions that are necessary for the maintenance of discipline and order or the management and administration of the juvenile training school on



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the number of visitors, the visiting site, date and time, duration and frequency of visits, and other conditions of visits.

(2) If the superintendent of a juvenile training school intends to impose restrictions on the frequency of visits pursuant to the provisions of the preceding paragraph, the frequency must be not less than twice per month.

Article 96 (1) The date and time of visits to an inmate by an attendant, etc. or a defense counsel, etc. is set during working hours of the juvenile training school on days other than Sunday and other days specified by Cabinet Order.

(2) The number of visitors in a visit referred to in the preceding paragraph is three or less.

(3) Even if an attendant, etc. or a defense counsel, etc. requests to visit an inmate not on the basis of the preceding two paragraphs, the superintendent of the juvenile training school is to permit the inmate receiving the visit except if it hinders the management and administration of the juvenile training school.

(4) The superintendent of a juvenile training school may, pursuant to Ministry of Justice Order, impose restrictions on the visiting site that are necessary for the maintenance of discipline and order or the management and administration of the juvenile training school as to the visit under paragraph (1).

#### (Accommodated Visit)

Article 97 If the superintendent of a juvenile training school intends to permit an inmate to receive the visit by the custodian or other person deemed appropriate, and finds it appropriate based on the intent of inmates, the custodian or other person deemed appropriate and other circumstances, the superintendent may, pursuant to Ministry of Justice Order, have the inmate receive the visit by the means of putting the inmate in a specially separated place inside the juvenile training school and having the custodian or other person deemed appropriate staying in that place.

### Section 3 Correspondence

#### (Letters Permitted to Be Sent or Received)

Article 98 The superintendent of a juvenile training school is to permit an inmate to send and receive letters, except if it is prohibited by the provisions of this Section, Article 109, paragraph (3), or the next Chapter.

#### (Examination of Letters)

Article 99 (1) The superintendent of a juvenile training school is to appoint officials and have them examine letters an inmate sends or receives.

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(2) With regard to the letters set forth in the following items, the examination under the preceding paragraph is to be conducted to the extent necessary for verifying if the letters fall under any of the following items; provided, however, that with regard to the letters set forth in item (iv), this does not apply if there are special circumstances under which it is likely to disrupt discipline and order in the juvenile training school:

(i) letters an inmate receives from an attendant, etc. or a defense counsel, etc.;

(ii) letters an inmate receives from a national or local government agency;

(iii) letters an inmate sends to a national or local government agency which conducts an inquiry into the measures taken toward the inmate by the superintendent of the juvenile training school, or any other treatment the inmate received;

(iv) letters an inmate sends to or receives from an attorney (including a legal professional corporation; hereinafter the same applies in Article 101, paragraph (2)) who conducts the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the measures taken toward the inmate by the superintendent of the juvenile training school, or any other treatment the inmate received.

(3) If the superintendent of a juvenile training school finds that there is no risk of disrupting discipline and order in the juvenile training school or hindrance to the adequate pursuance of correctional education for the inmate, the superintendent of the juvenile training school may, notwithstanding the provisions of the preceding two paragraphs, elect not to have the examination referred to in paragraph (1) conducted.

#### (Prohibition of Correspondence)

Article 100 With regard to the persons (except for custodians, etc. of the inmate) who have criminal tendencies or are likely to disrupt discipline and order in the juvenile training school or hinder the adequate pursuance of correctional education for the inmate by receiving from or sending correspondence to the inmates, the superintendent of the juvenile training school may prohibit the inmate from sending to or receiving correspondence from them; provided, however, that this does not apply if the inmate sends to or receives correspondence from the persons in order to carry out a business that is significantly important for the status, legal situation, education or occupation of the inmate, such as the reconciliation of marital relations, pursuance of lawsuit or preparation for school or employment.

#### (Restraint of Letters Due to Contents)

Article 101 (1) If, as the result of the examination under the provisions of Article 99, it is found that all or part of a letter sent or received by an inmate falls under the following items, the superintendent of the juvenile training school may restrain the inmate from sending or receiving of the letter, or remove or erase the relevant part from the letter. The same applies if all or part of the letter referred to in the items of paragraph (2) of the same Article is found, in

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the course of verifying if the letter falls under the items thereunder, to fall under the following items:

(i) if an official of the juvenile training school is unable to understand the letter or a part thereof due to the use of a code or other reasons;

(ii) if there is a risk of infringing penal laws and regulations, or promoting or inducing a crime or delinquency by sending or receiving the letter or part thereof;

(iii) if there is a risk of disrupting discipline and order in the juvenile training school by sending or receiving the letters or part thereof;

(iv) if there is a risk of making the addressee feel extremely uneasy or inflicting a loss to the addressee because the letter or part thereof includes intimidating statements or statements that are clearly false;

(v) if the letter or a part thereof includes statements that extremely insult the addressee;

(vi) if there is a risk of hindering adequate pursuance of correctional education for the inmate by sending or receiving the letter or part thereof.

(2) Notwithstanding the provisions of the preceding paragraph, with regard to letters an inmate sends to or receives from a national or local government agency and whose contents include the matters under the authority of the agency, or letters an inmate sends to or receives from an attorney who performs the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the inmate, the superintendent of the juvenile training school may restrain them from sending or receiving the letter, or remove or erase the relevant part from them only if all or part of the letter falls under any of items (i) through (iii) of the preceding paragraph.

#### (Restrictions on Letters)

Article 102 (1) The superintendent of a juvenile training school may, pursuant to Ministry of Justice Order, impose restrictions necessary for the management and administration of the juvenile training school upon the method of writing letters, the date and time for applying to send letters, the number of letters (except those for an attendant, etc. or a defense counsel, etc.) an inmate may apply to send, and the procedures for sending or receiving letters.

(2) If the superintendent of a juvenile training school intends to impose restrictions on the number of letters an inmate may apply to send pursuant to the provisions of the preceding paragraph, the number must be not less than four per month.

#### (Cost of Sending)

Article 103 If an inmate is unable to bear the cost for sending a letter, and the superintendent of the juvenile training school finds it appropriate in light of the purpose of the letter, all or part of the cost is to be borne by the National Treasury.

#### (Handling of Prohibited Letter, etc.)

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Article 104 (1) The superintendent of a juvenile training school is to retain letters which they prohibit or restrain from being sent or received, pursuant to the provisions of Article 100, Article 101 or Article 109, paragraph (3), or is to retain the part of letters which they remove pursuant to the provisions of Article 101.

(2) If the superintendent of a juvenile training school erases part of the text of a letter pursuant to the provisions of Article 101, they are to make a copy of the part to be erased and retain it.

(3) The superintendent of a juvenile training school is to deliver all or part of the letter or the copy (hereinafter referred to as "prohibited letter, etc.") retained pursuant to the provisions of the preceding two paragraphs to the inmate or a person who exercises parental authority, etc. of the inmate upon release of the inmate.

(4) If an inmate dies, the superintendent of the juvenile training school is to, pursuant to Ministry of Justice Order, deliver the prohibited letter, etc. to the bereaved family, etc. based on the application for it.

(5) Notwithstanding the provisions of the preceding two paragraphs, if there is a risk of hindering the maintenance of discipline and order in the juvenile training school or promoting or inducing a crime or delinquency by inmates by the delivering the prohibited letter, etc., the superintendent of the juvenile training school is to not deliver them. The same applies in the following cases, if there is a risk of hindering the maintenance of discipline and order in the juvenile training school or promoting or inducing crime or delinquency by inmates by delivering the prohibited letter, etc.:

(i) if a released inmate or a person who exercises parental authority, etc. of the inmate requests delivery of the prohibited letter, etc. after release of the inmate;

(ii) if an inmate falls under any of the items of Article 76, paragraph (1), and the inmate or a person who exercises parental authority, etc. of the inmate, etc. requests delivery of the prohibited letter, etc.

(6) The provisions of Article 75, paragraph (1), Article 76, paragraph (1), Article 77, paragraphs (2) and (3) apply mutatis mutandis to prohibited letters, etc. (except those not being delivered pursuant to the provisions of the preceding paragraph) pertaining to an inmate. In this case, the term "application set forth in paragraph (1)" in paragraph (3) of the same Article is deemed to be replaced with "application set forth in Article 104, paragraph (4)".

(7) Letters, etc. of which the delivery or receipt is prohibited pursuant to the provisions of paragraph (5) are to be allocated to the National Treasury on the day on which a period of three years passes from the day of the release or death of the inmate, or from the day on which the inmate has fallen under any of the items of Article 76, paragraph (1).

#### (Documents and Pictures Made by Inmates)

Article 105 If an inmate makes a document or picture (excluding letters) and applies to

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deliver it to another person, the superintendent of the juvenile training school may deal with the delivery by conducting examination or tanking other measures in the same manner as for letters sent by the inmates.

#### Section 4 Communication by Telephone, etc.

(Communication by Telephone, etc.)

Article 106 (1) If the superintendent of a juvenile training school finds that it contributes to the rehabilitation or smooth reintegration into society of inmates, or finds it appropriate, the superintendent may permit them to communicate with a person set forth in the items of Article 92, paragraph (1) by telephone or by other means of telecommunication specified by Cabinet Order.

(2) The provisions of Article 103 apply mutatis mutandis to the communication referred to in the preceding paragraph.

(Verification of Communication)

Article 107 (1) The superintendent of a juvenile training school is to appoint an official and to verify the communication referred to in paragraph (1) of the preceding Article or to record the content of the communication in order to examine it; provided, however, that this does not apply if there is no risk of causing the disruption of discipline and order in the juvenile training school or hindrance to the adequate pursuance of correctional education for the inmate by the communication.

(2) The provisions of Article 94 (except for paragraph (1), item (i), (a)) apply mutatis mutandis to the communication referred to in paragraph (1) of the preceding Article.

#### Section 5 Miscellaneous Provisions

(Counseling or Assistance in the Contact with the Outside World)

Article 108 If an inmate receives the visit, send the letter, or engages in the communication set forth in Article 106, paragraph (1), and the superintendent of the juvenal training school finds it necessary for the inmate to communicate smoothly with the counterpart and build good relations, the superintendent is to give counseling or assistance; provided, however, that this does not apply if the inmate intends to receive the visit of an attendant, etc. or a defense counsel, etc. or other person specified by Ministry of Justice Order, or to send a letter to those persons.

(Visits, etc. in Foreign Languages)

Article 109 (1) If an inmate or the other parties of visits, etc. (meaning visits and the

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communication referred to in Article 106, paragraph (1); hereinafter the same applies in this Article) do not understand Japanese, the superintendent of the juvenile training school is to permit visits, etc. in a foreign language. In this case, if interpretation or translation is necessary in order to examine the oral statements or the communication, the superintendent may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(2) If the superintendent of a juvenile training school finds that an inmate or the other party of correspondence does not understand Japanese, or finds it appropriate, the superintendent is to permit sending or receiving letters in a foreign language. In this case, if translation is necessary in order to examine the contents of the letter, the superintendent of the juvenile training school may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(3) Visits, etc. or correspondence are not permitted if the inmate does not bear the costs pursuant to the preceding two paragraphs.

(Attendance to the Funeral of Relatives, etc.)

Article 110 (1) If the superintendent of a juvenile training school finds it appropriate for an inmate to attend the funeral of relatives (meaning a spouse or relatives within the third degree of kinship; hereinafter the same applies in this paragraph) or to visit a relative in a critical condition due to injury or illness, the superintendent of the juvenile training school may permit it.

(2) Of the expenses required in order to attend or visit pursuant to the provisions of the preceding paragraph, the transportation costs pertaining to the inmate are borne by the inmate; provided, however, that if the inmate is unable to pay it in full because of indigence or for other reasons, the superintendent of a juvenile training school may exempt the inmate from all or part of the costs.

(Effect of Treaty)

Article 111 If otherwise provided in a treaty, matters related to the visits and correspondence prescribed in this Chapter and the following Chapter are governed by the treaty.

#### 4. Juvenile Classification Home Resident

<Juvenile Classification Homes Act (Article 80-108)>\*

Article 80 (1) If a person set forth in the following items requests to visit an inmate under observation and protection, the director of the juvenile classification home is to permit the inmate under observation and protection to receive the visit except if it is prohibited pursuant the provisions of Article 107, paragraph (3); provided, however, that this does not apply where receiving a visit is not permitted pursuant to the provisions of the Code of Criminal Procedure (including cases where it is applied mutatis mutandis pursuant to the Juvenile Act; the same applies in the following paragraph).:

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- (i) custodian, etc. of the inmate under observation and protection; and
  - (ii) person whose visits are necessary in order to carry out a business that is significantly important for the status, legal situation, education or occupation of the inmate under observation and protection, such as the reconciliation of marital relations, pursuance of lawsuit or preparation for school or employment;
- (2) If a person other than those set forth in the items of the preceding paragraph requests to visit an inmate under observation and protection, and the director of the juvenile classification home finds there to be circumstances under which the visit is necessary for receiving the assistance necessary for the inmate under observation and protection to live a sound social life or for any other reasons, and that it falls under all of the following items (excluding item (iv), in case where the inmate under observation and protection is not subject to classification; the same applies in paragraph (1) of the following Article), the director of juvenile classification home may permit the inmate under observation and protection to receive the visit; provided, however, that this does not apply where receiving a visit is not permitted pursuant to the provisions of the Code of Criminal Procedure.
- (i) if there is no risk of causing disruption of discipline and order in the juvenile classification home by receiving the visit;
  - (ii) if there is no risk of causing destruction of evidence concerning protection cases or criminal cases of the inmate under observation and protection by receiving the visit;
  - (iii) if there is no risk of significantly hindering sound development of the inmate under observation and protection by receiving the visit; and
  - (iv) if there is no risk of hindering the adequate pursuance of classification of the inmate under observation and protection by receiving the visit.

#### (Observation of Visits)

Article 81 (1) The director of the juvenile classification home is to appoint officials and have them observe visits (excluding visit by attendants, etc. (meaning attendant or, attorney who intends to become an attendant upon the request of the inmate or their custodian; the same applies hereinafter) or by defense counsels, etc.) to the inmate under observation and protection or make audio or video recording of them; provided, however, that if it is deemed that it falls under all of the items in paragraph (2) of the preceding Article, the director of the juvenile classification home may elect not to have officials observe or record audio and video of the visit (referred to as “observation, etc.” in the following paragraph).

(2) Notwithstanding the provision of the preceding paragraph, the director of the juvenile classification home must not have officials observe, etc. visits to an inmate under observation and protection of any of the following person, except if there are special circumstances under which it must be found likely to cause either disruption of discipline and order in the juvenile classification home or destruction of evidence concerning the protection cases or criminal

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cases of the inmate under observation and protection.

(i) national or local government official conducting an inquiry into the measures taken by the director of the juvenile classification home toward the inmate under observation and protection, or any other treatment for observation and protection or classification the inmate under observation and protection received; and

(ii) attorney performing the duty under Article 3, paragraph (1) of the Attorney Act (Act no. 205 of 1949) with regard to the measures taken by the director of the juvenile classification home toward the inmate under observation and protection, or any other treatment for observation and protection or classification the inmate under observation and protection received.

(Suspension and Termination of Visits)

Article 82 In cases falling under any of the following items (limited to (b) of item (i) in the case of visit by an attendant, etc. or a defense counsel, etc.), an official of the juvenile classification home may either control the conducts or oral statements, or suspend the visit. In this case, the official may order the inmate under observation and protection or the visitor to withdraw from the visiting site, or may take any other necessary measures to suspend the visit:

(i) if the inmate under observation and protection or the visitor engages in conduct falling under any of the following sub-items (a) or (b);

(a) conduct breaching the restriction under the provisions of paragraph (1) of the following Article; and

(b) conduct detrimental to discipline and order in the juvenile classification home; and

(2) If the inmate under observation and protection or the visitors makes any oral statements that fall under any of the following sub-items (a) through (g) inclusive;

(a) oral statement which an official of the juvenile classification home is unable to comprehend due to a use of specific kinds of communication such as a code;

(b) oral statement that incites, or induces a crime or delinquency;

(c) oral statement that is likely to disrupt discipline and order in the juvenile classification home;

(d) oral statement that is likely to cause destruction of evidence concerning protection cases or criminal cases of the inmate under observation and protection;

(e) oral statement that is likely to significantly hinder the sound development of the inmate under observation and protection;

(f) in cases of visit permitted due to the necessary of carrying out a specific business, oral statement that clearly deviates from the business to be carried out; and

(g) in cases where the inmate under observation and protection is subject to classification, oral statement that is likely to cause hindering adequate pursuance of the classification.



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(2) If a visit is suspended pursuant to the provision of the preceding paragraph, and the director of the juvenile classification home finds it inappropriate to continue the visit, the director may terminate the visit.

#### (Visit Restriction)

Article 83 With regard to the visits to an inmate under observation and protection (excluding visits by attendant, etc. or defense counsel, etc.), the director of the juvenile classification home may, pursuant to the Ministry of Justice Order, impose restrictions that are necessary for the maintenance of discipline and order or the management and administration of the juvenile classification home on the number of visitors, the visiting site, date and time, duration and frequency of visits, and other conditions of visits.

(2) If the director of a juvenile classification home intends to impose restrictions on the frequency of visits pursuant to the provisions of the preceding paragraph, the frequency must be not less than once a day.

Article 84 The date and time of visits to an inmate under observation and protection by the attendant, etc. or the defense counsel, etc. is set during working hours of the juvenile classification home on days other than Sunday and other days specified by Cabinet Order.

(2) The number of visitors in a visit referred to the preceding paragraph is three or less.

(3) Even if an attendant, etc. or defense counsel, etc. requests to visit an inmate under observation and protection not on the basis of the preceding two paragraphs, the director of the juvenile classification home is to permit the inmate under observation and protection receiving the visit except if it hinders the management and administration of the juvenile classification home.

(4) The director of a juvenile classification home may, pursuant to the Ministry of Justice Order, impose restriction on the visiting site that are necessary for the maintenance of discipline and order or the management and administration of the juvenile classification home as to the visit under paragraph (1).

### Division 2 Unsented Inmates

#### (Visitors)

Article 85 (1) If a person requests to visit an unsentenced inmate (except for those with status as inmate under observation and protection; hereinafter the same applies in this Division), the director of the juvenile classification home is to permit the unsentenced inmate to receive the visit except if it is prohibited pursuant to the provisions of the following paragraph or Article 107, paragraph (3); provided, however, that this does not apply where receiving visit is not permitted by the provisions of the Code of Criminal Procedure.

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(2) With regard to the person (excluding a custodian, etc. of the unsentenced inmate) who has criminal tendencies or is likely to significantly hinder their sound development by the visit, the director of the juvenile classification home may prohibit the unsentenced inmate to receive the visit; provided, however, that this does not apply when receiving a visit from an attendant, etc. or defense counsel, etc. or the director finds it necessary for the protection of the rights of defendant or suspect, or for the protection of rights such as for making arrangements for a lawsuit.

#### (Observation of Visits)

Article 86 (1) The director of the juvenile classification home is to appoint officials and have them observe visits (excluding visits by attendants, etc. and defense counsels, etc.) to an unsentenced inmate or make audio or video recording of them; provided, however, that if it falls under all of the following items, the director of the juvenile classification home may elect not to have officials observe or record audio and video of the visit (referred to “observation, etc.” in the following paragraph):

- (i) if there is no risk of causing disruption of discipline and order in the juvenile classification home by receiving the visit;
- (ii) if there is no risk of causing destruction of evidence concerning protection cases or criminal cases of the unsentenced inmate by receiving the visit; and
- (iii) if there is no risk of significantly hindering sound development of the unsentenced inmate by receiving the visit.

(2) Notwithstanding the provision of the preceding paragraph, the director of the juvenile classification home must not have officials observe, etc. visits to an unsentenced inmate of any of the following person, except if there are special circumstances under which it must be found that it is likely to cause either disruption of discipline and order in the juvenile classification home or destruction of evidence concerning protection cases or criminal cases of the unsentenced inmate:

- (i) national or local government official conducting an inquiry into the measures taken by the director of the juvenile classification home toward the unsentenced inmate, or any other treatment for observation and protection the unsentenced inmate received; and
- (ii) attorney performing the duty under Article 3, paragraph (1) of the Attorney Act with regard to the measures taken by the director of the juvenile classification home toward the unsentenced inmate, or any other treatment for observation and protection the unsentenced inmate received.

#### (Suspension and Termination on Visits)

Article 87 The provisions of Article 82 through 84 (excluding Article 82, paragraph(1), item (ii), sub-item (f) and (g) ) apply mutatis mutandis to the visits to an unsentenced inmate. In

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this case, the term “ protection cases or criminal cases” in sub-item (d) of the same item is deemed to be replaced with “criminal cases”.

### Division 3 Juvenile Training School Inmate in Juvenile Classification Home

#### (Visitors)

Article 88 If any of the persons set forth in the following items requests to visit a juvenile training school inmate in a juvenile classification home, the director of the juvenile classification home is to permit the juvenile training school inmate in the juvenile classification home to receive the visit except if it is prohibited pursuant to the provisions of Article 107, paragraph (3):

- (i) custodians, etc. of the juvenile training school inmate in the juvenile classification home;
- (ii) person whose visits are necessary in order to carry out a business that is significantly important for the status, legal situation, education or occupation of the juvenile training school inmate in the juvenile classification home, such as the reconciliation of marital relations, pursuance of lawsuit or preparation for school or employment; and
- (iii) person whose visits are likely to contribute to the rehabilitation of the juvenile training school inmate in the juvenile classification home, such as a person related to the rehabilitation of the juvenile training school inmate in the juvenile classification home.

(2) If a person other than those set forth in the items of the preceding paragraph requests to visit a juvenile training school inmate in a juvenile classification home, and the director of the juvenile classification home finds there to be circumstances under which the visit is necessary for receiving the assistance necessary for the juvenile training school inmate in the juvenile classification home to live a sound social life or for other reasons, and that it falls under all of the following items (except for item (iii), in case where the juvenile training school inmate in the juvenile classification home is not subjected to classification; the same applies in the paragraph (1) of the following Article), the director of the juvenile classification home may permit the juvenile training school inmate in the juvenile classification home to receive the visit:

- (i) If there is no risk of causing disruption of discipline and order in the juvenile classification home by receiving the visit;
- (ii) If there is no risk of hindering the rehabilitation of the juvenile training school inmate in the juvenile classification home by receiving the visit;
- (iii) If there is no risk of hindering the adequate pursuance of classification of the juvenile training school inmate in the juvenile classification home by receiving the visit.

#### (Observation of Visits)

Article 89 (1) The director of the juvenile classification home is to appoint officials and have

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them observe visits (excluding visit by attendants, etc. or defense counsels, etc.) to the juvenile training school inmate in the juvenile classification home or make audio or video recording of them; provided, however, that if it is deemed that it falls under all of the items in paragraph (2) of the preceding Article, the director of the juvenile classification home may elect not to have officials observe or record audio and video of the visit (referred to as “observation, etc.” in the following paragraph).

(2) Notwithstanding the provisions of the preceding paragraph, the director of a juvenile classification home must not have officials observe , etc. a visit to a juvenile training school inmate in a juvenile classification home of any of the following person, except if there are special circumstances under which it must be found that it is deemed likely to disrupt discipline and order in the juvenile classification home:

(i) national or local government official conducting an inquiry into the measures taken by the director of the juvenile classification home toward the inmate, or any other treatment for observation and protection or classification the inmate received in the juvenile classification home; or the measures taken by the superintendent of the juvenile training school toward the inmate, or any other treatment the inmate received in the juvenile training school;

(ii) attorney performing the duty under Article 3, paragraph (1) of the Attorney Act with regard to the measures taken by the director of the juvenile classification home toward the inmate, or any other treatment for observation and protection or classification the inmate received in the juvenile classification home; or the measures taken by the superintendent of the juvenile training school toward the inmate, or any other treatment the inmate received in the juvenile training school.

(Suspension and Termination of Visits, etc.)

Article 90 The provisions of Article 82 through 84 (excluding Article 82, paragraph (1), item (ii), sub-item (d)) apply mutatis mutandis to the visits to a juvenile training school inmate in a juvenile classification home. In this case, the term “significantly hinder sound development” in sub-item (e) of the same item is deemed to be replaced with “hinder the rehabilitation.”

#### Division 4 Miscellaneous Inmates

Article 91 The provisions of Division 1 (excluding the proviso of paragraph (1) and proviso and item (ii) of paragraph (2) of Article 80, and the Article 82, paragraph (1), item (ii), sub-item (d)) apply mutatis mutandis to the visits to an miscellaneous inmate. In this case, the term “all of the items in paragraph (2) of the preceding Article” in Article 81, paragraph (1) is deemed to be replaced with “all of the items in paragraph (2) of the preceding Article (excluding the item (ii))”, and the term, “home or destruction of evidence concerning protection cases or criminal cases of the inmate under observation and protection” in

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paragraph (2) of the same Article is deemed to be replaced with “home”.

## Subsection 2 Correspondence

### Division 1 Inmate under Observation and Protection

#### (Letters Permitted to Be Sent or Received)

Article 92 The director of a juvenile classification home is to permit an inmate under observation and protection to send and received letters to and from another person, except if it is prohibited pursuant to the provisions of this Division or Article 107, paragraph (3); provided, however, that this does not apply where sending or receiving letters is not permitted pursuant to the provision of the Code of Criminal Procedure (including the cases where it is applied mutatis mutandis pursuant to the Juvenile Act).

#### (Examination of Letters)

Article 93 (1) The director of a juvenile classification home is to appoint officials and have them examine letters an inmate under observation and protection sends or receives.

(2) With regard to the letters set forth in the following items, the examination under the preceding paragraph is to be conducted to the extent necessary for verifying the letters fall under any of the following items; provided, however, that with regard to letters set forth in item (iii), this does not apply if there is a special circumstance under which it is likely to cause either disruption of discipline and order in the juvenile classification home or destruction of evidence concerning the protection cases or criminal cases of the inmate under observation and protection:

(i) letters an inmate under observation and protection receives from an attendant, etc. or a defense counsel, etc.;

(ii) letters an inmate under observation and protection receives from a national or local government agency; and

(iii) letters an inmate under observation and protection receives from an attorney (including a legal professional corporation; hereinafter the same applies in this Subsection) who conducts the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the measures taken toward the inmate under observation and protection by the director of the juvenile classification home or any other treatment for observation and protection or classification the inmate under observation and protection received.

(3) If the director of a juvenile classification home finds that there is no risk of causing disruption of discipline and order in the juvenile classification home or destruction of evidence concerning protection cases or criminal cases of the inmate under observation and protection, the director of the juvenile classification home may, notwithstanding the

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provisions of the preceding two paragraphs, elect not to have the examination referred to in paragraph (1) conducted.

(Prohibition of Correspondence)

Article 94 If, as result of the examination under the provisions of the preceding Article, it is found that all or part of a letter sent or received by an inmate under observation and protection falls under the following items, the director of the juvenile classification home may restrain the inmate from sending or receiving of the letter, or remove or erase the relevant part from the letter. The same applies if all or part of the letter referred to in the items of paragraph (2) of same Article is found, in the course of verifying if the letter falls under the following items:

(i) if an official of the juvenile classification home is unable to understand the letter or part thereof due to the use of a code or other reasons;

(ii) if there is a risk of infringing penal laws and regulations, or promoting or inducing a crime or delinquency by sending or receiving the letter or part thereof;

(iii) if there is a risk of disrupting discipline and order in the juvenile classification home by sending or receiving the letters or part thereof;

(iv) if there is a risk of making the addressee feel extremely uneasy or inflicting a loss to the addressee because the letter or part thereof includes intimidating statements or statements that are clearly false;

(v) if the letter or part thereof includes statements that extremely insult the addressee;

(vi) if there is a risk of causing destruction of evidence concerning protection cases or criminal cases of the inmate under observation and protection by sending or receiving the letter or part thereof;

(vii) if there is a risk of significantly hindering the sound development of the inmate under observation and protection by sending or receiving the letter or part thereof; and

(viii) when the inmate under observation and protection is subject to classification, cases where there is a risk of hindering the adequate pursuance of the classification by sending or receiving the letters or a part thereof.

(2) Notwithstanding the provisions of the preceding paragraph, with regard to letters the inmate under observation and protection sends to or receives from a national or local government agency and whose contents include the matters under the authority of the agency, or letters the inmate under observation and protection sends to or receives from an attorney who performs the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the inmate under observation and protection, the director of the juvenile classification home may restrain them from sending or receiving the letter, or remove or erase the relevant part from them only if all or part of the letter falls under any of items (i) through (iii) or (vi) of the preceding paragraph.

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(Restrictions on Letters)

Article 95 The director of a juvenile classification home may, pursuant to the Ministry of Justice Order, impose restriction necessary for the management and administration of the juvenile classification home upon the method of writing letters, the date and time for applying to send the letters, the number of letters (except for those for an attendant, etc. or a defense counsel, etc.) an inmate under observation and protection may apply for to send, and the procedures for sending to or receiving letters.

(2) If the director of a juvenile classification home intends to impose restrictions on the number of letters an inmate under observation and protection may apply for to send pursuant to the provisions of the preceding paragraph, the number must be not less than one per day.

(Cost of Sending)

Article 96 If an inmate under observation and protection is unable to bear the cost for sending a letter, and the director of a juvenile classification home finds it appropriate in light of the purpose of the letter, all or part of the cost is to be borne by the National Treasury.

(Handling of Prohibited Letter, etc.)

Article 97 The director of a juvenile classification home is to retain letters prohibited or refrained from being sent or received pursuant to the provisions of Article 94 or Article 107, paragraph (3), or is to retain the part of letters removed pursuant to the provisions of Article 94.

(2) If the director of a juvenile classification home erases part of the text of a letter pursuant to the provisions of Article 94, they are to make a copy of the part to be erased and retain it.

(3) The director of juvenile classification home is to deliver all or part of the letter or the copy (hereinafter referred to as “prohibited letter, etc.”) retained pursuant to the provisions of the preceding two paragraphs to the inmate under observation and protection or a person who exercises parental authority, etc. upon their release.

(4) If an inmate under observation and protection died, the director of the juvenile classification home is to, pursuant to the Ministry of Justice Order, deliver the prohibited letter, etc. to the bereaved family, etc. based on the application for it.

(5) Notwithstanding the provisions of the preceding two paragraphs, when there is a risk of hindering maintenance of discipline and order in the juvenile classification home by the delivering the prohibited letter, etc., the director of the juvenile classification home is not to deliver them. The same applies to the following cases where there is a risk of hindering maintenance of discipline and order in the juvenile classification home by the delivering the prohibited letter, etc.:

(i) if a released inmate under observation and protection or a person who exercises parental authorities, etc. requests delivery of the prohibited letter, etc. after release of the inmate under

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observation and protection; and

(ii) if an inmate under observation and protection who falls under any of the items of Article 63, paragraph (1), and the inmate under observation and protection or the person exercises parental authority, etc. thereof requests delivery of the prohibited letter, etc.

(6) The provisions of Article 62, paragraph (1), Article 63, paragraph (1) and Article 64, paragraph (2) and (3) apply mutatis mutandis to the prohibited letter, etc. (except for those decided not to be delivered pursuant to the provisions of the preceding paragraph) pertaining to an inmate under observation and protection. In this case, the term “application set forth in paragraph (1)” in paragraph (3) of the same Article is deemed to be replaced with “application set forth in Article 97, paragraph (4)”.

(7) Prohibited letter, etc. not being delivered pursuant to the provisions of paragraph (5) are to allocated to the National Treasury on the day on which the period of three years starting either from the day of the release or the death of the inmate under observation and protection, or from the day on which the inmate under observation and protection has fallen under any of the items of Article 63, paragraph (1) has passed.

#### (Documents and Pictures Made by Inmates under Observation and Protection)

Article 98 When an inmate under observation and protection makes a document or a picture (except for letters) and applies to deliver it to another person, the director of the juvenile classification home may deal with the delivery by conducting an examination or taking any other measures in the same manner as for letters sent by the inmate under observation and protection.

#### Division 2 Unsented Inmates

Article 99 The provisions of the preceding Division (excluding Article 94, paragraph (1), item (viii)) apply mutatis mutandis to the letters an unsentenced inmate (excluding those with status as an inmate under observation and protection) sends or receives. In this case, the term “the Code of Criminal Procedure (including the cases where it is applies mutatis mutandis pursuant to the Juvenile Act)” in the proviso of Article 92 is deemed to be replaced with as “the Code of Criminal Procedure”; and the term “ protection cases or criminal cases” in proviso of Article 93, paragraph (2) and paragraph (3) and term “protection cases or criminal cases” in Article 94, paragraph (1), item (vi) is deemed to be replaced with “criminal cases”; and the term “treatment for observation and protection or classification” in Article 93, paragraph(2), item (iii) is deemed to replace with “treatment for observation and protection”.

#### Division 3 Juvenile Training School Inmate in Juvenile Classification Home



(Letters Permitted to Be Sent or Received)

Article 100 The director of a juvenile classification home is to permit a juvenile training school inmate in a juvenile classification home to send and receive letters to and from another person, except if it is prohibited by the provisions of this Division or Article 107, paragraph (3).

(Examination of Letters)

Article 101 (1) The director of a juvenile classification home is to appoint officials and have them examine letters the juvenile training school inmate in the juvenile classification home sends or receives.

(2) With regard to the letters set forth in the following items, the examination under the preceding paragraph is to be conducted to the extent necessary for verifying if the letters fall under any of the following items; provided, however, that with regard to letters set forth in item (iv), this does not apply if there are special circumstances under which it is likely to cause disruption of discipline and order in the juvenile classification home:

(i) letters a juvenile training school inmate in a juvenile classification home receives from an attendant, etc. or a defense counsel, etc.;

(ii) letters a juvenile training school inmate in juvenile classification home receives from a national or local government agency;

(iii) letters a juvenile training school inmate in a juvenile classification home sends to a national or local government agency which conducts an inquiry into the measures taken by the director of the juvenile classification home toward the inmate, or any other treatment for observation and protection or classification the inmate received in the juvenile classification home; or the measures taken by the superintendent of the juvenile training school toward the inmate, or other treatment the inmate received in the juvenile training school; and

(iv) letters a juvenile training school inmate in a juvenile classification home sends to or receives from an attorney who discharges the duty prescribed in Article 3, paragraph (1) of the Attorney Act with regard to the measures taken toward the inmate by the director of the juvenile classification home, or any other treatment for observation and protection or classification the inmate received in the juvenile classification home; or the measures taken by the superintendent of the juvenile training school toward the inmate, or other treatment the inmate received in the juvenile training school.

(3) If the director of a juvenile classification home finds that there is no risk of disrupting discipline and order in the juvenile classification home or hindering the rehabilitation of the juvenile training school inmate in the juvenile classification home, the director of the juvenile classification home may, notwithstanding the provisions of preceding two paragraphs, elect not to have the examination referred to in the paragraph (1) conducted.

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#### (Prohibition of Correspondence)

Article 102 With regard the persons (except for custodian, etc. of the juvenile training school inmate in the juvenile classification home) who have criminal tendencies or are likely to disrupt discipline and order in the juvenile classification home or hinder the rehabilitation of the juvenile training school inmate in the juvenile classification home by receiving from or sending correspondence to the juvenile training school inmate in the juvenile classification home, the director of the juvenile classification homes may prohibit the juvenile training school inmate in the juvenile classification home from sending to or receiving correspondence from them; provided, however, that this does not apply if the juvenile training school inmate in the juvenile classification home sends to or receives correspondence from the persons in order to carry out a business that is significantly important for the status, legal situation, education or occupation of the juvenile training school inmate in the juvenile classification home, such as reconciliation of marital relations, pursuance of lawsuit or preparation for school attendance or employment.

#### (Restraint of Letters Due to Contents)

Article 103 The provisions of Article 94 through 98 (except for Article 94, paragraph (1), item (vi)) apply mutatis mutandis to the letters a juvenile training school inmate in a juvenile classification home sends or receives. In this case, the term “the preceding Article” in the same paragraph is deemed to be replaced with “Article 101”; the term “significantly hindering the sound development” in item (vii) of the same paragraph is deemed to be replaced with “hindering the rehabilitation”; the term “(i) through (iii) or (vi)” in Article 94, paragraph (2) is deemed to be replaced with “(i) through (iii)”; the term “or Article 107, paragraph (3)” in Article 97, paragraph (1) is deemed to be replaced with “, Article 102 or Article 107, paragraph (3)”; and the term “discipline and order in the juvenile classification home” in paragraph (5) of the same Article is deemed to be replaced with “discipline and order in the juvenile classification home or promoting or inducing a crime or delinquency of juvenile school inmate in juvenile classification home”.

#### Division 4 Miscellaneous Inmates

Article 104 The provisions of the main clause of Article 92, Article 94 through Article 98 (except for Article 94, paragraph (1), item (vi)) and Article 101 apply mutatis mutandis to the letters a miscellaneous inmate sends or receives. In this case, the term “the preceding Article” in the same paragraph is deemed to be replaced with “Article 101 applied mutatis mutandis pursuant to Article 104”; the term “(i) through (iii) or (vi)” in Article 94, paragraph (2) is deemed to be replaced with “(i) through (iii)”; the term “the juvenile classification home; or the measures taken by the superintendent of the juvenile training school toward the inmate, or

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other treatment the inmate received in the juvenile training school” in Article 101, paragraph (2), item (iii) and (iv) is deemed to be replaced with “the juvenile classification home”; and the term “the juvenile classification home or hindering the rehabilitation of the juvenile training school inmate in the juvenile classification home” in paragraph (3) of the same Article is deemed to be replaced with “the juvenile classification home”.

#### Subsection 3 Communication by Telephone, etc.

(Communication by Telephone, etc.)

Article 105 (1) If the director of a juvenile classification home finds that it contributes to rehabilitation or smooth reintegration of inmates into society, or finds it appropriate, the director may permit them to communicate with a person set forth in the items of Article 88, paragraph (1) by telephone or by other means of telecommunication specified by Cabinet Order.

(2) The provisions of Article 96 apply mutatis mutandis to the communication referred to in the preceding paragraph.

(Verification of Communication)

Article 106 The director of a juvenile classification home is to appoint an official and to verify the communications referred to in paragraph (1) of the preceding Article or record the content of the communication in order to examine it; provided, however, that this does not apply if it is deemed that it falls under all of the following items (except for item (iii) when an juvenile training school inmate in a juvenile classification home is not subject to classification):

(i) if there is no risk of disrupting discipline and order in the juvenile classification home by the communication;

(ii) if there is no risk of hindering the rehabilitation of the juvenile training school inmate in the juvenile classification home by the communication;

(iii) if there is no risk of hindering the adequate pursuance of classification of the juvenile training school inmate in the juvenile classification home by the communication;

(2) The provisions of Article 82 (except for paragraph (1), item (i), (a) and item (ii), (d)) apply mutatis mutandis to the communication referred to in paragraph (1) of the preceding Article by the juvenile training school inmate in the juvenile classification home. In this case, the term “significantly hinder sound development” is deemed to be replaced with “hindering the rehabilitation”.

#### Subsection 4 Miscellaneous provisions

(Visits, etc. in Foreign Languages)

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Article 107 If an inmate or the other parties of visits, etc. (meaning visits and the communication referred to in Article 105, paragraph (1); hereinafter the same applies in this Article) do not understand Japanese, the director of the juvenile classification home is to permit a visits, etc. in a foreign language. In this case, if interpretation or translation is necessary in order to examine the oral statement or the communication, the director may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(2) If the director of a juvenile classification home finds that an inmate or the other party of correspondence does not understand Japanese, or finds it appropriate, the director is to permit sending or receiving letters in a foreign language. In this case, if translation is necessary in order to examine the contents of the letter, the director of the juvenile classification home may, pursuant to Ministry of Justice Order, charge expenses to the inmate.

(3) Visits, etc. or correspondence are not permitted if the inmate does not bear the cost pursuant to the preceding two paragraphs.

(Effect of Treaty)

Article 108 If otherwise provided in a treaty, matters related to the visits and correspondence prescribed in this section are governed by the treaty.

## 5. Residents of Women's Guidance Homes

Women's Guidance Home Act (Article 8)

Article 8 (Visits and Communication)

1. If the superintendent of a women's guidance home finds it hinders the rehabilitation for an inmate or disrupts discipline and order in the women's guidance home, the superintendent may restrict or forbid visits that inmate receives, and, with regard to communication, the superintendent may erase the part that hinders the rehabilitation or disrupts the discipline and order.

2. The superintendent of a women's guidance home must not examine the letters sent or received by an inmate, except in the case that there are reasonable grounds for the superintendent to find a risk to cause hindrance to rehabilitation or disruption of discipline and order in the women's guidance home.

## 6. Deportation Procedures

<Immigration Control and Refugee Recognition Act (Article 61-(7))>

(Treatment of Detainees)

Article 61-7 A person detained in an Immigration Detention Center or Detention House (hereinafter referred to as a "Detainee" and "Immigration Detention Facilities") is to be given maximum liberty consistent with the security requirements of the Immigration Detention Facilities.

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- (2) The Detainee is to be provided with standardized bedding and supplied with standardized food.
- (3) The supplies furnished to the Detainee is to be adequate and the accommodations at the immigration detention facilities are to be maintained in a sanitary condition.
- (4) The director of an Immigration Detention Center or regional immigration bureau (hereinafter referred to as "Director of the Immigration Detention Facilities") may examine the body, personal effects or clothing of the Detainee, and may retain the Detainee's personal effects or clothing when the director considers it necessary for the security or sanitation purposes of the Immigration Detention Facilities.
- (5) The Director of the Immigration Detention Facilities may inspect any form of communication being sent or received by the Detainee, and may prohibit or restrict such sending or receiving when the director considers it necessary for the security of Immigration Detention Facilities.
- (6) Beyond the matters prescribed in the preceding paragraphs, other necessary matters pertaining to the treatment of Detainees are to be provided by Ministry of Justice Order.

#### Regulations on the Treatment of Detainees (Article 33, Article 34, and Article 37)

##### Article 33 (Visitation with Consular Officers)

1. The Director of the Immigration Facilities shall permit visitation with persons cited below when such a request is made by these persons to visit the detainee.
  - (1) Consular officers of the country of the detainee's nationality or citizenship; and
  - (2) The counsel or attorney of the detainee (including attorneys attempting to become such by request).
2. The Director of the Immigration Facilities can designate necessary requirements concerning the time, place of the visitation when permitting the visitation and other matters per the provisions of the preceding paragraph.

##### Article 34 (Visitation with Persons Other than Consular Officers)

1. When a request for visitation with the detainee is made from a person other than those cited in the preceding article, the Director of the Immigration Facilities will ask necessary information such as the name, relationship with the detainee and reason for the visitation, and shall permit the visit when deemed not to inhibit security and situation of the detention facility.
2. The provisions of Paragraph 2 of the preceding article apply to visitations of the preceding paragraph.
3. The Director of the Immigration Facilities must have an immigration control officer attend when permitting the visitation per the provisions of Paragraph 1, except when the Director of the Immigration Facilities deems this unnecessary.

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4. If the detainee or visitor engages in an act deemed to be a hindrance to safety, the immigration control officer shall immediately restrain the individual and if they cannot be restrained the immigration officer can stop the visit.
5. The immigration control officer must notify the Director of the Immigration Facilities promptly in case of stopping the visit due to the provisions of the preceding paragraph.

#### Article 37 (Sending and Receiving of Communication)

1. In cases where a communication sent by a detainee is inspected and part of the communication is deemed to be a hindrance to the security of the detention facility, the Director of the Immigration Facilities shall notify the detainee of this and have them send the communication after revising or deleting the part in question. If the detainee does not follow this order, the communication shall be kept in retention.
2. In cases where a communication received by a detainee is inspected and part of the communication is deemed to be a hindrance to the security of the detention facility, the Director of the Immigration Facilities shall delete or block out the part in question before delivering the communication to the detainee. In such instances, if it is deemed inappropriate to deliver, the communication shall be kept in retention.
3. The provisions of Article 11, Paragraph (1) apply to communication in custody per the provisions of the preceding two paragraphs.

### **Annex 14 - Main Domestic Laws and Regulations on Guaranteeing Notification of Facts and Place of Imprisonment**

#### 1. Criminal Procedures

Notification of detention (including information of the name of the court ordering the detention and location of detention) shall be given to the defense counsel, or in case of no defense counsel, the person who has been specified by the accused from among his/her legal representative, curator, spouse, lineal relatives and siblings (Article 79 and Article 207, Paragraph (1), the Code of Criminal Procedure; Article 79, Rules of Criminal Procedure; and Article 35, Regulations on Incident Administration).

#### <Code of Criminal Procedure>

Article 79 When the accused has been detained, his or her counsel shall be notified immediately. When no counsel has been appointed for the accused, notification shall be given to the person who has been specified by the accused from among his/her legal representative, curator, spouse, lineal relatives and siblings.

Article 207 The judge who has been requested detention pursuant to the provision of the preceding three Articles shall have the same authority as a court or a presiding judge

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regarding the disposition thereof; provided, however, that this shall not apply to bail.

#### <Rules of Criminal Procedure>

##### (Notice of Detention)

Article 79 In cases where an accused person has been detained, if the accused has no defense counsel, statutory agent, curator, spouse, lineal relative, or sibling, upon the request of the accused, one person designated by the accused shall be notified to the effect that the accused has been detained.

#### <Regulations on Incident Administration>

##### Article 35

When a suspect is transferred, the prosecutor promptly notifies the court and defense counsel prescribed in Article 80, Paragraph (2) of the Rules of Criminal Procedure ... using the Transfer Notification ...

#### 2. Detainees of penal institutions

None (Penal institutions encourage detainees to notify their family of their detention.)

#### 3. Juvenile Training School residents (inmates)

##### <Juvenile Training Schools Act (Article 22)>\*

##### (Notification of Admission)

Article 22 When an inmate is admitted to a juvenile training school, the superintendent of the juvenile training school is to promptly notify the custodian of the inmate or other persons deemed appropriate of that.

#### 4. Juvenile Classification Home residents (inmates)

##### <Juvenile Classification Homes Act (Article 25)>\*

##### (Notification of Admission)

Article 25 When an inmate under observation and protection, an unsentenced inmate, and other inmate provided for by the Ministry of Justice Order is admitted to a juvenile classification home, the director of the juvenile classification home is to promptly notify the custodian or other persons deemed appropriate of that.

#### 5. Detention procedure under the Immigration Control Act

None (However, at the immigration bureau, the fact of detention and location can be conveyed to a person on the outside by visitation with the detainee [Article 33 and Article 34, Regulations on the Treatment of Detainees] or the detainee sending a letter [Article 37, Regulations on the Treatment of Detainees].)

<Regulations on the Treatment of Detainees>

Article 33 (Visitation with Consular Officers)

1. The Director of the Immigration Facilities shall permit visitation with persons cited below when such a request is made by these persons to visit the detainee.

(1) Consular officers of the country of the detainee's nationality or citizenship; and

(2) The counsel or attorney of the detainee (including attorneys attempting to become such by request).

2. The Director of the Immigration Facilities can designate necessary requirements concerning the time, place of the visitation when permitting the visitation and other matters per the provisions of the preceding paragraph.

Article 34 (Visitation with Persons Other than Consular Officers)

1. When a request for visitation with the detainee is made from a person other than those cited in the preceding article, the Director of the Immigration Facilities will ask necessary information such as the name, relationship with the detainee and reason for the visitation, and shall permit the visit when deemed not to inhibit the security and situation of the detention facility.

2. The provisions of Paragraph (2) of the preceding article apply to visitations of the preceding paragraph.

3. The Director of the Immigration Facilities must have an immigration control officer attend when permitting the visitation per the provisions of Paragraph (1), except when the Director of the Immigration Facilities deems this unnecessary.

4. If the detainee or visitor engages in an act deemed to be a hindrance to safety, the immigration control officer shall immediately restrain the individual and if they cannot be restrained the immigration officer can stop the visit.

5. The immigration control officer must notify the Director of the Immigration Facilities promptly in case of stopping the visit due to the provisions of the preceding paragraph.

Article 37 (Sending and Receiving of Communication)

1. In cases where a communication sent by a detainee is inspected and part of the communication is deemed to be a hindrance to the security of the detention facility, the Director of the Immigration Facilities shall notify the detainee of this and have them send the communication after revising or deleting the part in question. If the detainee does not follow this order, the communication shall be kept in retention.

2. In cases where a communication received by a detainee is inspected and part of the communication is deemed to be a hindrance to the security of the detention facility, the Director of the Immigration Facilities shall delete or block out the part in question before



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delivering the communication to the detainee. In such instances, if it is deemed inappropriate to deliver, the communication shall be kept in retention.

3. The provisions of Article 11, Paragraph (1) apply to communication in custody per the provisions of the preceding two paragraphs.

## **Annex 15 - Main Domestic Laws and Regulations on Rights for Contacting Consular Authorities**

1. Effectuation of the Vienna Convention on Consular Relations and consular relations with the states parties to the Convention

Taking into account the provisions of Article 36 of the Vienna Convention on Consular Relations, if a national of a states party to the Convention is detained, the competent authority shall confirm the intention of the national for requesting a report to the consular post and, if requested, the competent authority shall inform the consular post of the date and time of detainment, name, charged offense, and location of detention. When a public prosecutor requests the court to prohibit the suspect from having interview with persons, the consular officer shall be excluded from the range of the prohibition, as there are no special circumstances.

2. Contact with consular authorities at correctional institutions

With regard to report to consular offices under the Vienna Convention on Consular Relations, it is assumed that the obligations under the convention are performed by reporting of police officers, judges, etc. at the start of detainment. GoJ circular (Kyosei No. 3334; 2007) states that in case of the detention of a foreign national at a correctional institutions (penal institution, juvenile training school, juvenile classification home, and women's guidance home) (including when an inmate is transferred from other facility) the consular office is to be notified if the detainee so requests, in considering the facilitation of communication between the foreign national detainee and consular office.

3. Detention procedure under the Immigration Control Act:

Regulations on the Treatment of Detainees (Article 33), MOJ Kankei No. 55 "Administrative Processing Related to reporting Consular Offices and Consular Conventions etc.(Circular)" dated February 26, 2002" (Circular on Reporting to Consular Officers, Interviews of Consular Officers and Communication Directed to Consular Offices)

## **Annex 16 - Main Domestic Laws and Regulations on Guaranteeing Communication and Visitation at Detention Facilities**

1. Rules on the Detention of Detainees (National Public Safety Commission Rule No.11 of 2007)\*

Article 8 The detention service manager shall, when a detainee makes request as such, notify his/her family or a person acting in his place about the detention: Provided, That this

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shall not apply in such cases as investigation is hindered by notification.

Article 15 A detention officer shall, when a detainee makes request regarding his treatment, selection of defense counsel, etc., forthwith report it to the detention chief, and cause necessary measures to be taken.

## 2. Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Visitors)

Article 216 When a person requests to visit any detainee other than the sentenced persons under detention, the detention services manager is to permit the detainee to receive the visit, except for when it is prohibited pursuant to the provisions of Article 228, paragraph (3); provided, however, that the foregoing does not apply where the detainee is an detainee awaiting a judicial decision and such visit is not permitted by the provisions of the Code of Criminal Procedure.

### (Visitors of the Sentenced Person under Detention)

Article 217 (1) When any of the persons set forth in the following items requests to visit a sentenced person under detention, the detention services manager is to permit the sentenced person under detention to receive the visit, except for when it is prohibited pursuant to the provisions of Article 228, paragraph (3). In this case, the provisions set forth in the proviso of the preceding paragraph apply mutatis mutandis:

- (i) person who is a relative of the sentenced person under detention;
- (ii) person who requires to visit in order to carry out business of personal, legal, or occupationally-important concern of the sentenced person under detention, such as reconciliation of marital relations, pursuance of a lawsuit, or maintaining a business;
- (iii) person whose visit is deemed instrumental to the reformation and rehabilitation of the sentenced person under detention, such as a person pertaining to the rehabilitation to and guardianship of the sentenced person under detention or a person who intends to employ the sentenced person under detention after release.

(2) When a person other than those set forth in the items of the preceding paragraph requests to visit a sentenced person under detention, if it is deemed that there are circumstances where the visit is necessary for maintaining a good relationship with the person or for any other reasons, and if it is deemed that there is no risk of causing either disruption of discipline and order in the detention facility or hindrance to the adequate pursuance of reformation and rehabilitation for the sentenced person under detention, then the detention services manager may permit the sentenced person under detention to receive the visit. In this case, the provisions set forth in the proviso of the preceding paragraph apply mutatis mutandis.

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(Letters Permitted to Be Sent and Received)

Article 221 The detention services manager is to permit a detainee to send and receive letters to and from another person, except for when it is prohibited pursuant to the provisions of this Subsection or Article 228, paragraph (3); provided, however, that this does not apply in the cases of the detainee being an detainee awaiting a judicial decision where sending or receiving letters is not permitted by the provisions of the Code of Criminal Procedure.

Article 228 (1) When a detainee or the other party of a visit does not have a sufficient command of Japanese, the detention services manager is to permit the visit in a foreign language. In this case, if translation is necessary in order to examine the oral statements, then the detention services manager may, pursuant to Cabinet Office Order, charge the expenses thereby incurred to the detainee.

(2) When a detainee or the other party of correspondence does not have a sufficient command of Japanese, or when it is deemed appropriate, the detention services manager is to permit the sending or receiving of a letter in a foreign language. In this case, if translation is necessary in order to examine the contents of the letter, then the detention services manager may, pursuant to Cabinet Office Order, charge the expenses thereby incurred to the detainee.

(3) When the detainee does not bear the expenses prescribed in the preceding two paragraphs, the visit or the correspondence must not be permitted.

#### **Annex 17 – Act on the Treatment of Prisoners of War and Other Detainees in Armed Attack Situations, etc., and Survived-Threatening Situation (Excerpt)**

(Visits by representatives of protecting powers, etc.)

Article 80 (1) The prisoner of war camp commander shall, in cases where any of the persons listed in the following items request to visit detainees, permit detainees to receive the visit. In this case, no staff member of the prisoner of war camp attends a visit for a detainee:

- (i) Representatives of protecting powers;
- (ii) Representatives of designated Red Cross International Organization;
- (iii) Defense counsels in criminal cases of the detainee.

(2) The prisoner of war camp commander may, in cases of permitting visit pursuant to the provision of the preceding paragraph, make necessity minimum conditions for visit, such as date and time, and visiting site, pursuant to the an Ordinance of the Ministry of Defense, for not causing an extraordinary hindrance to the management and administration of the prisoner of war camp, only to the extent not to preclude the purpose of the visit.

(Other visitors)

Article 81 (1) In cases where a person other than those listed in all items of the paragraph

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- (1) of the preceding Article requests to visit a detainee, if it is deemed that there is a special circumstance where the visit is necessary, and if it is deemed that there is no risk of causing hindrance to the management and operations of the prisoner of war camp by permitting such visit, then the prisoners of war camp commander may, in the manner set forth by the Ministry of Defense, permit the detainee to receive the visit.
- (2) The staff member of the prisoner of war camp shall attend the visit set forth in the preceding paragraph to the extent the attendance is not inconsistent with the business purposes of the visitors.
- (3) In the cases where the detainee or the visitor commits any act clearly deviating from, or makes any oral statement those contents clearly deviates from what is necessary to carry out the business to which the visit has permitted, a staff member of prisoners of war camp may either restrain the conducts or oral statements, or suspend the visit. In this case, the staff member may order the detainee or the visitor to withdraw from the visiting site, or may take any other necessary measures to suspend the visit.
- (4) In cases where a visit is suspended pursuant to the provision of the preceding paragraph, if it is deemed inappropriate to continue the visit, then the prisoners of war camp commander may terminate the visit.

(Restriction and Suspension of visits)

Article 82 (1) The Minister of Defense may order the prisoner of war camp commander, with a designation of the period and facilities of the prisoner of war camp, to restrict or suspend the visits prescribed in the provision the preceding two Articles, when the Minister of Defense finds it extremely necessary to do so for the defense of Japan, in light of circumstance of the necessary use of force engaged by the Self-Defense Forces to repel Armed Attacks or Survived-Threatening Armed Attacks, deployment of Self-Defense Forces Units, etc., and other situations with regard to the measures taking against Armed Attack Situations.

(2) The Minister of Defense shall, when he/she finds the restriction or suspension of visits set forth in the preceding paragraph has become unnecessary, order immediately the prisoner of war camp commander to terminate such rescission or suspension of the visits.

(Correspondence)

Article 83 Correspondence with detainees may not be prohibited or restricted other than what is provided for in this Section.

(Restrictions on letters)

Article 84 (1) The prisoner of war camp commander may, pursuant to an Ordinance of the Ministry of Defense, impose restrictions necessary for the adequate pursuance of the

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internment upon the manner in preparing and the number of letters, and the procedures for sending or receiving letters of detainees,; provided, however, that this shall not apply to letters that the prisoners' representatives or the assistants to the prisoners' representatives send to national or local government agency, protecting powers, designated Red Cross International Organization, or designated assisting organizations and that contain matters under the authority of the prisoners' representatives or the assistants to the prisoners' representatives pursuant to the provision of Article 80 and other provisions of the Third Convention.

- (2) In the cases referred to in the preceding paragraph, when the prisoners of war camp commander impose restriction on the number of letters a detainee sends, the number shall be not less than two per month with regards to what is provided for by an Ordinance of the Ministry of Defense as corresponding to the letters prescribed in paragraph (1) of Article 71 of the Third Convention, and four per month for with regards to what is provided for by an Ordinance of the Ministry of Defense as corresponding to the postcards prescribed in the said paragraph.
- (3) Notwithstanding the provision in the paragraph (1), the number of letters that chaplains, etc. send to religious organizations necessary to assist the religious actions of the detainees or to perform religious ceremonies pursuant to the provision of Article 42, shall not be restricted, except in the case that there is a risk to cause extraordinary hindrance in the adequate pursuance of the internment.

(Examination of letters)

- Article 85 (1) The prisoner of war camp commander shall promptly conduct the examination of the contents of letters that the detainees send and receive.
- (2) Notwithstanding the provision in the preceding paragraph, the prisoner of war camp commander shall examine the letters that detainees receive from national or local government agency within the limits necessary for ascertaining the contents thereof.

(Suppression, etc. of letters by contents)

- Article 86 (1) In cases where it is found, as the result of the examination pursuant to the provision of paragraph (1) of preceding Article, that all or a part of a letter a detainee sends or receives falls under the cases set out under the following items, the prisoner of war camp commander may suppress the sending or receiving, or remove or erase the said parts of the letter:
- (i) Cases where the contents of the letter or a part thereof are the kind unable to be understood due to a use of specific kind of communication such as in code;
  - (ii) Cases where there is a risk of causing hindrance to the defense of Japan by sending or receiving the letter or a part thereof;

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- (iii) Cases where there is a risk of either infringing penal laws and regulations or causing infringement of penal laws and regulations by sending or receiving the letter or a part thereof;
  - (iv) Cases where there is a risk of causing escape and other disruption of discipline and order with regards to the treatment of the detainees by sending or receiving a letter or a part thereof;
  - (v) Cases where there are clearly false descriptions of the treatment of the detainees and other conditions with regards to the treatment of the detainees.
- (2) Notwithstanding the provisions in the preceding paragraph, with regard to either letters a detainee sends to or receives from the protecting powers or designated Red Cross International Organizations and whose contents include the matters under the authorities of those organizations prescribed in the provisions of the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not suppress their sending or receiving, or remove or erase the concerned part of the letter to authorities of those organizations for the reason that all or a part of letter pertaining to matters concerned fall under item (v) of the preceding paragraph.
- (3) Notwithstanding the provisions of the paragraph (1), with regard to either letters a detainee sends to or receives from a national or local government agency and whose contents include the matters under the authority of the agency and letters a detainee sends to or receives from an attorney who discharges the duty prescribed in paragraph (1) of Article 3 of the Attorney Act (Act No. 205 of 1949) with regard to the detainee, the prisoners of war camp commander shall not suppress their sending or receiving, or remove or erase the concerned part of them for the reasons that all or a part of letter pertaining to matters concerned fall under item (v) of paragraph (1).
- (4) Notwithstanding the provisions of the paragraph (1), with regard to either letters prisoners' representatives or assistants to the prisoners' representatives send to or receive from a national or local government agency and that contain matters under the authority of the agency, and with regard to either letters prisoners' representatives or assistants to the prisoners' representatives send to or receive from protecting powers, designated Red Cross International Organization or designated assisting organizations and that contain matters under the authority of the prisoners' representatives, the assistants to the prisoners' representatives, protecting powers, designated Red Cross International Organization or designated assisting organizations prescribed in the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not suppress their sending or receiving.
- (5) Notwithstanding the provisions of the paragraph (1), with regard to letters prisoners' representatives or assistants to the prisoners' representatives send to a national or local government agency and that contain matters under the authority of the agency, and with

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regard to letters either prisoners' representatives or assistants to the prisoners' representatives send to or receive from protecting powers, designated Red Cross International Organization or designated assisting organizations and that contain matters under the authority of the prisoners' representatives, the assistants to the prisoners' representatives, protecting powers, designated Red Cross International Organization or designated assisting organizations prescribed in the Third Convention or the First Additional Protocol, the prisoners of war camp commander shall not remove or erase the concerned part of letters for the reasons that all or a part of letter pertaining to matters concerned fall under item (v) of paragraph (1).

(Sending Telegram, etc. by detainees)

Article 87 (1) In case where detainees may not have correspond with their spouse or relatives within the third degree of kinship by letters and in other cases as provided for by an Ordinance of the Ministry of Defense, the prisoner of war camp commander may permit the detainee to send telegrams and to engage in communication by other means of telecommunications provided for by an Ordinance of the Ministry of Defense (hereinafter referred to as "telegram, etc.").

(2) The prisoner of war camp commander may, pursuant to an Ordinance of the Ministry of Defense, impose restrictions necessary for the adequate pursuance of the internment upon the manner in preparing and the number of sending or engaging of the telegram, etc., and the procedures for sending or engaging telegram, etc. of detainees.

(3) The provisions of the paragraph (1) of Article 85 and paragraph (1) of Article 86 shall apply mutatis mutandis to telegrams, etc. that detainees send or engage.

(4) Notwithstanding the provisions of the preceding three paragraphs, with regard to the telegrams, etc. that prisoners' representatives or assistants to the prisoners' representatives send or to a national or local government agency, protecting powers, designated Red Cross International Organization or designated assisting organizations and that contain matters under the authority of the prisoner' representatives or the assistants to the prisoners' representatives pursuant to the provisions of Article 80 and other articles of the Third Convention shall be deemed as letters, and the provisions of Article 83 to the preceding Article inclusive shall apply thereof.

(Receiving Telegraphs, etc. of detainees)

Article 88 The telegrams, etc. that the detainees receive or engage in shall be deemed to be letters that the detainees receive and the provisions of Article 83, paragraph (1) of Article 84, Article 85 and Article 86 shall apply thereof.

(Delegation to Ordinance of the Ministry of Defense)

Article 89 In addition to matters provided for in this Section, the matters necessary for the

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correspondence and engaging in the telegraphs, etc., shall be provided by an Ordinance of the Ministry of Defense.

(Filling of complaints with a prisoner of war camp commander)

Article 90 A detainee may, either orally or in writing, file a complaint with regard to the measures taken by the prisoner of war camp commander against him/her or any other treatment he/she received.

## **Q20 (d)**

### **Annex 18 - Table**

### **Annex 19 - Related Clauses**

1. Rules on the Detention of Detainees (National Public Safety Commission Rule No.11 of 2007) \*

Article 7 A detention officer, when putting a detainee in a detention facility, must confirm any outer injuries found on the individual, as they occur, and record the conditions, causes, etc. in detail.

5. Act on Penal Detention Facilities and Treatment of Inmates and Detainees

(On-the-Spot Inspections)

Article 18 In the interest of appropriate enforcement of this Act, the Chief of Police must designate inspectors from among their staff and have the inspectors conduct on-the-spot inspections at each detention facility at least once per annum, pursuant to the provisions of the relevant prefectural public safety commission (or district public safety commission in cases of areas other than where the Hokkaido Police Headquarters is located; hereinafter referred to as "public safety commissions.")

(Inspection Rounds)

Article 19 In the interests of equal treatment of detainees and the appropriate enforcement of this Act, the Commissioner General of the National Police Agency is to, pursuant to provisions of the public safety commission, order inspectors which they have designated to conduct inspection rounds of the detention facilities.

## **Q20 (e)**

### **Annex 20 - Related Clauses on Inspections**

1. Act on Penal Detention Facilities and Treatment of Inmates and Detainees\*

(On-the-Spot Inspections)

Article 5 In the interests of appropriate enforcement of this Act, the Minister of Justice must



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designate inspectors from among their staff and have the inspectors conduct on-the-spot inspections at each penal institution at least once per annum.

## 2. Women's Guidance Home Act

### Article 20

The Minister of Justice shall designate inspectors among his/her staff and order the inspectors to conduct on-the-spot inspections at women's guidance home at least once per annum or more frequently.

## 3 · Juvenile Training School Act\*

### (On-the-Spot Inspection)

Article 6 In the interests of the appropriate enforcement of this Act, the Minister of Justice must designate inspectors from among the minister's staff and have the inspectors conduct on-the-spot inspections at each juvenile training school at least once per annum.

## 4 · Juvenile Classification Homes Act\*

### (On-the-Spot Inspection)

Article 5 In the interest of the appropriate enforcement of this Act, the Minister of Justice designate inspectors from among the minister's staff and have the inspectors conduct on-the-spot inspections at each juvenile classification home at least once per annum.

## **Annex 21 - Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Article 6, 11, 12, 18-24)**

### (Opinion Hearings)

Article 6 Wardens of penal institutions must endeavor to hear the opinions of staff or relevant public offices, public organizations and private organizations, and from persons with relevant knowledge and experience, essential for contributing to the appropriate administration of penal institutions.

### (Observations by Judges and Public Prosecutors)

Article 11 Judges and public prosecutors may observe penal institutions.

### (Viewing of Penal Institutions)

Article 12 If a person applies to view a penal institution and the application is deemed reasonable, wardens of penal institutions may permit them to do so.

(On-the-Spot Inspections)

Article 18 In the interest of appropriate enforcement of this Act, the Chief of Police must designate inspectors from among their staff and have the inspectors conduct on-the-spot inspections at each detention facility at least once per annum, pursuant to the provisions of the relevant prefectural public safety commission (or district public safety commission in cases of areas other than where the Hokkaido Police Headquarters is located; hereinafter referred to as "public safety commissions.")

(Inspection Rounds)

Article 19 In the interests of equal treatment of detainees and the appropriate enforcement of this Act, the Commissioner General of the National Police Agency is to, pursuant to provisions of the public safety commission, order inspectors which they have designated to conduct inspection rounds of the detention facilities.

(Detention Facility Visiting Committees)

Article 20 (1) A Detention Facility Visiting Committee (hereinafter referred to as "Committee" in this Chapter) is to be established in each Police Headquarters.

(2) Committees are to inspect detention facilities which are situated within the jurisdiction of the prefectural police which covers the Police Headquarters where Committees are situated (or, detention facilities under jurisdiction of the Hokkaido Police Headquarters when the Committee is situated at the Hokkaido Police Headquarters, or detention facilities under jurisdiction of Area Headquarters when the Committee is situated in Area Headquarters) and are to provide a statement of their opinions to the detention services manager on the administration of detention facilities.

(Organization)

Article 21 (1) The Public Safety Commission is to appoint Committee members (hereinafter referred to as "committee members" in this Article and paragraph (2) of the following Article) who are deemed to be of good character and who have a high level of insight, along with an interest in improving the administration of detention facilities.

(2) Committee members are to serve on a part-time basis.

(3) A person who is or has ever served as a Committee member must not divulge any secret which may have come to their knowledge in the course of their duties.

(4) Beyond what is provided for in the preceding three paragraphs, the fixed number of and the term of office of committee members and any other necessary details regarding the organization and administration of the Committee are provided for by Prefectural Ordinance. In this case, the fixed number of and the term of office of committee members are to be determined after taking into consideration the standards provided for by the National Public

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Safety Commission.

(Provision of Information to Committees and Committee Member Visits)

Article 22 (1) Detention services managers are to, pursuant to the provisions of public safety commissions, provide Committees on a regular or as-needed basis with information on detention facilities regarding the state of their administration (including information on the measures under Article 190, paragraph (1) or Article 208, paragraph (1)).

(2) Committees may, in order to understand the state of the administration of detention facilities, conduct detention facility visits for Committee members. During visits the Committee may, if necessary, have detention services managers cooperate in conducting interviews between detainees and Committee members.

(3) Detention services managers must cooperate as required in the visits and interviews with detainees as are set forth in the preceding paragraph. Wardens of penal institutions must cooperate as required in the visits and interviews with inmates set forth in the preceding paragraph.

(4) Notwithstanding the provisions of Article 222, the Committee must not examine any papers submitted to them by detainees.

(Publication of Opinions of the Committees)

Article 23 The Chief of Police is to every year gather information on both opinions expressed by a Committee to detention service managers and measures taken by detention service managers in response to those opinions, and is to publicize the outline thereof.

(Mutatis-Mutandis Application of Provisions on Penal Institutions)

Article 24 The provisions of Articles 6, 11, and 12 apply mutatis mutandis to detention facilities. In this case, the term "warden of the penal institution" in Articles 6 and 12 is deemed to be replaced with "detention services manager."

#### **Q21**

#### **Annex 22 - Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (Article 239)**

Article 239 If a detainee has died, the detention services manager must, pursuant to Cabinet Office Order, promptly inform the bereaved family about the cause, the time and date of the detainee's death, and about the left property or prohibited letters, etc. to be delivered to the same, if any.

#### **Q23**

#### **Annex 23 - Act on Penal Detention Facilities and the Treatment of Inmates and**

## **Detainees (Article 1, 16(2))**

### **(Purpose)**

Article 1 The objective of this Act is to ensure the adequate treatment of inmates, detainees, and Coast Guard detainees by respecting their human rights and taking into account their circumstances, as well as appropriately managing and administering penal detention facilities (i.e. penal institutions, detention facilities, and Coast Guard detention facilities).

### **Article 16**

(2) Police officers who engage in detention-related affairs in detention facilities (hereinafter referred to as "detention officers") are to be given training necessary for promoting a better understanding of the human rights of detainees and for acquiring and developing knowledge and skills necessary for appropriately and effectively treating detainees.

## **Q24**

### **Annex 24 - Related Clauses**

#### **1. Code of Criminal Procedure**

Article 290-2 (1) In handling the following cases, if a request is made by the victim or others of such case (meaning the victim or in cases where the victim has died or suffers from a serious physical or mental disorder, his/her spouse, a lineal relative, brother or sister; the same shall apply hereinafter), the legal representative for such victim or an attorney who has been entrusted by such persons, and when the court finds it appropriate after hearing the opinion of the accused or his/her counsel, it may render a ruling to such effect that matters identifying the victim (meaning the name and address of the victim or other matters which will identify the victim of such case; the same shall apply hereinafter) not be disclosed in an open court.

#### **2. Act on Measures Incidental to Criminal Proceedings for Protecting the Rights and Interests of Crime Victims**

Article 2 When victim, etc. (meaning a victim, or, if the victim has died or suffer from a serious mental or physical disorder, his/her spouse, lineal relative or sibling; the same applies hereinafter) in a criminal case under public prosecution or a statutory agent of said victim filed a request to attend trial proceedings in said case, the presiding judge of the court before which said case is pending must use his/her consideration so that the person making the request is able to attend, taking into account the number of seats for audience members, the number of persons wishing to attend the trial, and other circumstances.

#### **3. Civil Code**

Article 709 A person who has intentionally or negligently infringed any right of others, or

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legally protected interest of others, shall be liable to compensate any damages resulting in consequence.

Article 710 Persons liable for damages under the provisions of the preceding Article must also compensate for damages other than those to property, regardless of whether the body, liberty or reputation of others have been infringed, or property rights of others have been infringed.

#### 4. Code of Civil Procedure

See the link below:

<http://www.japaneselawtranslation.go.jp/law/detail/?re=01&dn=1&x=0&y=0&co=1&ia=03&yo=&gn=&sy=&ht=&no=&bu=&ta=&ky=%E6%B0%91%E4%BA%8B%E8%A8%B4%E8%A8%9F%E6%B3%95&page=60>

#### 5. State Redress Act

Article 1 (1) When a public officer who exercises the public authority of the State or of a public entity has, in the course of his/her duties, unlawfully inflicted damage on another person intentionally or negligently, the State or public entity shall assume the responsibility to compensate therefor.

#### 6. Civil Execution Act

See the link below:

<http://www.japaneselawtranslation.go.jp/law/detail/?re=01&dn=1&x=0&y=0&co=1&ia=03&yo=&gn=&sy=&ht=&no=&bu=&ta=&ky=%E6%B0%91%E4%BA%8B%E5%9F%B7%E8%A1%8C%E6%B3%95&page=31>

#### 7. Penal Code

Article 220 A person who unlawfully captures or confines another shall be punished by imprisonment for not less than 3 months but not more than 7 years.

Article 221 A person who commits the crime prescribed under the preceding Article and thereby causes the death or injury of another, shall be dealt with by the punishment prescribed for either the crimes of injury or the preceding Article, whichever is greater.

Article 224 A person who kidnaps a minor by force or enticement shall be punished by imprisonment for not less than 3 months but not more than 7 years.

Article 225 A person who kidnaps another by force or enticement for the purpose of profit,

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indecenty, marriage or threat to the life or body shall be punished by imprisonment for not less than 1 year but not more than 10 years.

Article 225-2 (1) A person who kidnaps another by force or enticement, for the purpose of causing the kidnapped person's relatives or any other person who would be concerned about the kidnapped person's safety to deliver any property, taking advantage of such concern, shall be punished by imprisonment for life or for a definite term of not less than 3 years.

(2) The same shall apply to a person, who having kidnapped another by force or enticement, causes or demands the kidnapped person's relatives or any other person who would be concerned about the kidnapped person's safety to deliver any property, taking advantage of such concern.

Article 226 A person who kidnaps another by force or enticement for the purpose of transporting another from one country to another country shall be punished by imprisonment for a definite term of not less than 2 years.

Article 226-2 (1) A person who buys another shall be punished by imprisonment for not less than 3 months but not more than 5 years.

(2) A person who buys a minor shall be punished by imprisonment for not less than 3 months but not more than 7 years.

(3) A person who buys another for the purpose of profit, indecenty, marriage or threat to the life or body, shall be punished by imprisonment for not less than 1 year but not more than 10 years.

(4) The preceding paragraph shall apply to a person who sells another.

(5) A person who sells or buys another for the purpose of transporting them from one country to another country shall be punished by imprisonment for not less than 2 years.

Article 226-3 A person who transports another kidnapped by force or enticement or another who has been bought or sold, from one country to another country, shall be punished by imprisonment for not less than 2 years.

Article 227 (1) A person who, for the purpose of aiding another who has committed any of the crime prescribed under Articles 224, 225 or the preceding three Articles, delivers, receives, transports or hides a person who has been kidnapped by force or enticement or has been bought or sold, shall be punished by imprisonment for not less than 3 months but not more than 5 years.

(2) A person who, for the purpose of aiding another who has committed the crime prescribed under paragraph (1) of Article 225-2, delivers, receives, transports or hides a person who has

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been kidnapped shall be punished by imprisonment for not less than 1 year but not more than 10 years.

(3) A person who, for the purpose of profit, indecency or threat to the life or body, receives a person who has been kidnapped or sold, shall be punished by imprisonment for not less than 6 months but not more than 7 years.

(4) A person who, for purpose prescribed under paragraph (1) of Article 225-2, receives a person who has been kidnapped shall be punished by imprisonment for a definite term of not less than 2 years. The same shall apply to a person, who has received a kidnapped person and causes or demands such person's relative or any other person who would be concerned about the safety of the kidnapped person to deliver any property, taking advantage of such concern.

Article 228 An attempt of the crimes prescribed under Articles 224, 225, paragraph (1) of Article 225-2, Articles 226 through 226-3 and paragraphs (1) through (3) and the first sentence of paragraph (4) of the preceding Article shall be punished.

#### **Annex 25 - Legal Punishment Concerning Article 25 (b) of the Treaty**

1. Counterfeiting of official documents (Article 155, Penal Code) and making of false official documents (Article 156, Penal Code)

Minimum: 10,000 yen fine / 1 month imprisonment

Maximum: 200,000 yen fine / 10 years imprisonment

2. False entries in the original of notarized deeds (Article 157, Penal Code)

Minimum: 10,000 yen fine / 1 month imprisonment

Maximum: 500,000 yen fine / 5 years imprisonment

3. Counterfeiting of private documents (Article 159, Penal Code)

Minimum: 10,000 yen fine / 3 months imprisonment

Maximum: 100,000 yen fine / 5 years imprisonment

4. Unauthorized creation of Electronic or Magnetic records (Article 161-2, Penal Code)

Minimum: 10,000 yen fine / 1 month imprisonment

Maximum: 1,000,000 yen fine / 10 years imprisonment

5. Damaging of documents for government use (Article 258, Penal Code)

Minimum: 3 months imprisonment

Maximum: 7 years imprisonment

6. Damaging of documents for private use (Article 259, Penal Code)

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Minimum: 1 month imprisonment

Maximum: 5 years imprisonment