Japan’s Comments on the Draft General Comment No.35 on Article 9 of

the International Covenant on Civil and Political Rights

1. Paragraph 33

Regarding paragraph 33, Japan would like to focus on the following sentences, inter alia, to draw the attention of the Committee to the basic perspective of the Japanese Government on the rights enshrined in Article 9 of the Covenant:

 “While the exact meaning of “promptly” may vary depending on objective circumstances, delays should not exceed a few days from the time of arrest. In the view of the Committee, forty-eight hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; any delay longer than forty-eight hours must remain absolutely exceptional and be justified under the circumstances.”

Pursuant to the Code of Criminal Procedure of Japan, a suspect may only be arrested, in principle, in cases where a judge issues the : 当該(とうがい)anaanan arrest warrant in advance, upon the request of a public prosecutor or a judicial police officer, when the judge finds sufficient judge : 裁判官(さいばんかん), 審判官(しんぱんかん)[手続法上，裁判官を「家事審判官」等という場合] / judge of Family Affairsexist : 存在する(そんざいする)sufficient : 足りる(たりる) / sufficient ground to find …;it would be sufficient to …probable cause : 相当の理由(そうとうのりゆう)[刑事の場合]probable cause to suspect that the suspect has committed an offence and necessity of the arrest : 逮捕(たいほ), 逮捕する(たいほする)arrest.the : 当該(とうがい)offense : 違反(いはん), 罪名(ざいめい)[抽象的意味の場合], 犯罪(はんざい) Subsequently, the request for detention shall be submitted to a judge within a time limit of 72 hours from the arrest when the public prosecutor finds it necessary. and the judge cannot detain the suspect without his/her statement having been taken.

On the other hand, some States, arrests without warrant issued by a judicial authorization are broadly allowed, and within a time-limit of 48 hours from the arrest, the suspect should be brought before a judge.shall : しなければならない(しなければならない), するものとする(するものとする)issue : 発付(はっぷ)[令状発付の場合], 発付する(はっぷする), 発行(はっこう)[原則], 発行する(はっこうする), 交付する(こうふする), 争点(そうてん)arrest warrant

As described above, such a time limit of the request for arrest warrant or detention varies from State to State. Even so, each criminal justice system takes into account due balance between the mechanism of arrest or detention and rights of the suspect in such a way as to implement the provisions enshrined in the Covenant. Therefore, in order to reflect the diversity of the national criminal justice systems of each State Party, Japan considers that it would be more appropriate not to mention the specific time frame in the sentence in paragraph 33.

1. Paragraph 58

As described in the first sentence, this paragraph mentions that “[a]n official register should be (…) made readily available and accessible to those concerned, including relatives,” in the light of the safeguard for the prevention of torture or any other form of arbitrary detention. However, it should also be noted that some detainees may not wish their records to be disclosed to other persons, even to their relatives. This point should be taken into account by each State Party in managing the official register within the scope of its domestic laws and regulations. For this reason, Japan would like to propose to insert “within the scope of domestic laws and regulations” after “made readily available and accessible” in the sixth line of this paragraph.