Response to the request for information from Special Procedures

from the Government of Japan

Regarding the request for information about the freedom of expression in the telecommunications and Internet access sector by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, which was sent on August 9, 2016 to the Permanent Mission of Japan to the United Nations Office and other international organizations in Geneva, the response from the Government of Japan is as follows.

Freedom of expression is guaranteed by Article 21 of the Constitution of Japan. It constitutes the political foundation of a democratic nation and is one of the most important fundamental human rights of the citizens, and therefore cannot be restricted unjustifiably even by law. In Japan freedom of expression is guaranteed fully, and law enforcement authorities respect this freedom thoroughly.

The Japanese police perform their duties, fully respecting freedom of expression. Japan does not have a legal system that restricts individual rights and interests without legal grounds.

Therefore, the Japanese police do not have the authority to unilaterally suspend or restrict access to websites, internet and telecommunications networks. Furthermore, they are not able to access customer data arbitrarily without going through the required legal procedures.

As for the “Remedies available in the event of undue restrictions on the Internet and telecommunications access or those available in the event of undue access to customer data”, the Ministry of Internal Affairs and Communications (MIC) has the authority to take collective actions on such undue restrictions, based on the Telecommunication Business Act.

A person who has suffered damages from such illegal acts may make a claim for damages against the perpetrator. .

As for the “Other relevant laws, policies or initiatives to promote or enhance Internet accessibility and connectivity, including measures to promote network neutrality”, fairness in terms of network use is guaranteed by the Telecommunication Business Act in Japan.

　 For your reference, the preliminary observations by the Special Rapporteur, which was released at the end of his visit to Japan in April 2016 points out the following.

“The importance of the right to freedom of opinion and expression is evident across Japanese society – in the richness of the arts, the breadth and depth of freedom on the internet and the regular protests one observes on the streets around government buildings. Indeed, Japan has real reason to be proud of the fact that it has one of the freest online environments in the world.” (quoted)

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