

Guidelines on Special Permission to Stay in Japan

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Immigration Bureau, Ministry of Justice

I Basic rationale on special permission to stay in Japan, and matters taken into account when judging whether to grant permission

When judging whether to grant special permission to stay in Japan, a comprehensive appraisal is made of all relevant circumstances for each individual case. These include the reason for the requested stay, family circumstances, the applicant's conduct, situations in Japan and abroad, consideration of humanitarian grounds, and, moreover, the potential impact on other persons without legal status in Japan. When doing so, the following specific matters are taken into account.

Positive Elements

The following are taken into account as positive elements, in addition to the matters specified in the Immigration Act, Article 50 paragraph 1 items (i) to (iii) (see Annex).

1 Positive elements to be given particular consideration

- (1) When one or both of the applicant's parents are Japanese nationals or special permanent residents.
- (2) When the applicant supports his/her own child (a legitimate child or an illegitimate child acknowledged by his/her father) born of the applicant and a Japanese national or special permanent resident, and when all of the following requirements are applicable:
 - a. When the child is a minor and unmarried.
 - b. When the applicant has parental authority over the child.
 - c. When the applicant has lived together with the child in Japan for a significant period of time, has custody of and raises the child.
- (3) When a marriage between the applicant and a Japanese national or special permanent resident has been legally established (excluding cases in which marriage is feigned or a formal notification of marriage has been submitted with the aim of avoiding deportation), and when both of the following requirements are applicable:
 - a. When the applicant and his or her spouse have cohabited for a significant period of time as a married couple, and are mutually cooperating with and supporting each other.
 - b. When the couple has a child or children, or when there are other reasons to deem that the marriage is stable and mature.

- (4) When the applicant is living together with his/her own child who is enrolled in an institution of primary or secondary education in Japan (excluding educational institutions in which education is given in the child's own language other than Japanese) and has resided in Japan for a significant period of time, and when the applicant has custody of and raises the child.
- (5) When the applicant requires treatment in Japan for a serious illness, etc., or when the applicant's continued presence in Japan is deemed necessary in order to nurse a family member who requires such treatment.

2 Other positive elements

- (1) When the applicant has appeared in person at a regional immigration bureau to report that he or she is residing in the country without legal status.
- (2) When a marriage between the applicant and a person who resides in Japan under a status of residence specified in Appended Table II (see Annex) has been legally established, and when the applicant falls into the category of the above-mentioned 1 (3) a. and b.
- (3) When the applicant supports his/her own child (a legitimate child or an illegitimate child acknowledged by his/her father) who resides in Japan under a status of residence specified in Appended Table II, and when the applicant falls into every category of the above-mentioned 1 (2) a. to c.
- (4) When the applicant is a minor and an unmarried child receiving the support of his/her parent who resides in Japan under a status of residence specified in Appended Table II.
- (5) When the applicant has resided in Japan for a considerable period of time and is deemed to be settled in Japan.
- (6) When there are humanitarian grounds or other special circumstances.

Negative Elements

Negative elements are as follows.

1 Negative elements to be given particular consideration

- (1) When the applicant has been punished for a serious crime, etc.

(Examples)

- When the applicant has been punished with penal servitude for a vicious or serious crime.
 - When the applicant has been punished for smuggling and illegal trafficking of 'goods harmful to society', such as illegal narcotics and firearms.
- (2) When the applicant has committed an offense related to the core of national administration on immigration control, or has committed a significant antisocial offense.

(Examples)

- When the applicant has been punished for abetting illegal employment, crimes related to mass stow-away, illegal receipt or issue of passports, etc.
- When the applicant has been punished for abetting illegal or fraudulent residence in Japan.
- When the applicant has committed an act that significantly compromises the social order of this country, such as personally engaging in prostitution or causing another to engage in prostitution.
- When the applicant has committed an act that significantly infringes human rights, such as human trafficking.

2 Other negative elements

- (1) When the applicant has entered the country illegally by stowing away on a ship, or by using a false passport, etc., or falsifying the status of residence.
- (2) When the applicant has undergone procedures for deportation in the past.
- (3) When the applicant is deemed to have committed other violations of penal law or acts of misconduct similar to these.
- (4) When the applicant has some other problems in the circumstances of his or her residence in Japan.

(Example)

- When the applicant belongs to a criminal organization.

II Judgment on whether to grant special permission to stay in Japan

An application for special permission to stay in Japan is given favorable consideration when, after the items listed above as positive and negative elements have been individually evaluated and given all due consideration, circumstances that should be regarded as positive elements clearly outweigh those that should be regarded as negative elements. Therefore, an application for special permission to stay in Japan is not necessarily given favorable consideration just because a single positive element exists; conversely, the existence of a single negative element will not prevent an application from being given favorable consideration altogether.

The main examples are as follows.

< Examples in which an application for special permission to stay in Japan is given favorable consideration >

- When one or both of the applicant's parents are Japanese nationals or special permanent residents, and when there is deemed to be no particular problem with the circumstances of the applicant's residence, e.g. there has been no violation of other laws or ordinances.
- When the applicant is married to a Japanese national or special permanent resident, and there is deemed to be no particular problem with the circumstances of the applicant's residence, e.g. there has been no violation of other laws or ordinances.
- When the applicant has been resident in Japan for a considerable period of time, has personally reported to a regional immigration bureau that he or she falls into the

category of deportation, and there is deemed to be no particular problem with the circumstances of the applicant's residence, e.g. there has been no violation of other laws or ordinances.

- When the applicant is living together with his/her own child who was born in Japan, has lived for at least 10 years in Japan and is enrolled in an institution of primary or secondary education in Japan, and the applicant has custody of and raises said child, has personally reported to a regional immigration bureau that he or she is staying in Japan illegally, and there is deemed to be no particular problem with the circumstances of residence of both parent and child, e.g. there has been no violation of other laws or ordinances.

< Examples in which an application for special permission to stay in Japan is given unfavorable consideration >

- When the applicant, though living in Japan for at least 20 years and deemed to be settled in Japan, has been punished for crimes such as abetting illegal employment, crimes related to mass stow-away, illegal receipt or issue of passports, etc., and has committed an offense related to the core of national administration on immigration control, or has committed a significant antisocial offense.
- When the applicant, though married to a Japanese national, has committed an act that considerably disturbs the social order of this country, such as having others engage in prostitution.

(Note) Immigration Control and Refugee Recognition Act (extract)

(Special Cases of Determination by the Minister of Justice)

Article 50

The Minister of Justice may, even if he/she finds that the objection filed is groundless, in making the determination set forth in paragraph (3) of the preceding Article, grant the suspect special permission to stay in Japan if the suspect falls under any of the following items:

- (i) He/She has obtained permission for permanent residence.
- (ii) He/She has had in the past a registered domicile in Japan as a Japanese national.
- (iii) He/She resides in Japan under the control of another due to trafficking in persons.
- (iv) The Minister of Justice finds grounds for granting special permission to stay, other than the previous items.

2, 3 (Omitted)

Appendix Table II

Status of Residence	Personal Status or Position for Which Residence is Authorized
Permanent Resident	Those who are permitted permanent residence by the Minister of Justice.
Spouse or Child of Japanese National	The spouses of Japanese nationals, the children adopted by Japanese nationals pursuant to the provisions of Article 817-2 of the Civil Code (Act No.89 of 1896) or those born as the children of Japanese nationals.
Spouse or Child of Permanent Resident	The spouses of those who stay with the status of residence of "Permanent Resident" or "Special Permanent Resident" (hereinafter referred to as "permanent or special permanent resident"), those born as children of a permanent or special permanent resident in Japan who has been residing in Japan.
Long-Term Resident	Those who are authorized to reside in Japan with a designation of period of stay by the Minister of Justice in consideration of special circumstances.