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Council of State rejects Ministry appeal in Shofukan case

Free access to Dutch labour market and territory for Japanese citizens

“After almost 3 years of struggle in court, this not only signifies a victory for our cultural foundation; from a juridical point of view, it is of great importance to all Japanese in the Netherlands,” says Shofukan director Joris van Nispen. **Japanese citizens are, in any perspective, now evened to the Swiss, who already were evened to citizens of the European Union. The Japanese are allowed to live, to work, and to stay in the Netherlands without restrictions other than making sure they have sufficient means and refrain from any criminal activities. This unprecedented outcome originated in a €60.000 fine for 3 Shikoku carpenters, who built a traditional chashitsu in the roji of the cultural centre in 2012. Shofukan persisted in the argument that no working permit was required. The Council agreed and revoked the penalty, but its verdict of 24 December 2014 is of much more fundamental consequence.**



Shofukan’s lawyer Julien Luscuere explains: “The Netherlands and Japan share a history starting in the seventeenth century, when the Dutch were granted exclusive rights to trade with Japan. This evolved in the almost forgotten Dutch - Japanese trade treaty of 1912, which equalized the position of Japanese citizens to that of the most favoured foreigners living and working in the Netherlands. In 2013, based on the Dutch - Swiss Friendship and trade treaty of 1875, the Council already considered that the Immigration office should review the application of Japanese citizens for a permit of residence in the same matter as is done with Swiss citizens. Since their treaty offered the Swiss free and almost unlimited access to Dutch territory, as well as the trade and labour market, people from Japan should be granted the same rights. The Council now firmly reiterates its 2013 considerations and

expands the conclusions under the Dutch Foreign national employment act. In practice, every Japanese should acquire the same opportunities to live and work in the Netherlands as other EU-citizens.”

Luscuere is cautious, however, as regards the direct implementations: “the Dutch immigration authorities may not be pleased with this development. I fear that Japanese immigrants will still need to comply with some bureaucratic requirements.” And the treaty is not there forever, warns the attorney: “Treaties between states are in many ways just like any other contract. One party on a 12-month notice can terminate the treaty with Japan. But that decision should be approved by the Dutch parliaments. For now I can’t think of any politician who, after 400 years, would dare to end this unique relationship between Holland and Japan in such a brutal manner.” Van Nispen concludes: “Whatever politics will bring, Senshin-an in Rotterdam will certainly - albeit unintentionally - stand as an even more proud and real life symbol of that long shared history, for many years to come!”