

Title: Japanese Supreme Court Ruling over Gender identity disorder person

The International Career Support Association (ECOSOC NGO) would like to submit a statement to the The Committee on the Elimination of Discrimination against Women (CEDAW) United Nations related to a case regarding the Japanese Supreme Court decision beyond its judicial capacity over a person with gender identity disorder and the restriction on the use of restrooms.

**Decision made by the Japanese Supreme Court beyond its judicial capacity – a person with gender identity disorder and the restriction on the use of restrooms**

A male staffer of the Japanese Ministry of Economy, Trade and Industry with gender identity disorder, who is physically male but regards himself as female although he did not undergo the officially required gender-changing surgery due to health reasons, told his senior in 2009 that he wanted to work as a woman. This staffer was allowed to wear makeup and female clothes and use the locker room and the restroom. However, this staffer was restricted to use the women's restroom on different floors, more than two floors apart, from the floor where this person works.

This staffer, feeling unsatisfied with this restriction, filed a lawsuit. The Japanese Supreme Court judged that the restricted use of the restroom is against the law, citing the Ministry overly considered the interest of the rest of the workers while it unduly slighted the interest of the plaintiff, on July 11, 2023.

Supreme Court Judge Imasaki Yukihiko added, "This judgment does not anticipate the use of restrooms in public facilities used by numerous people" and therefore "Such an issue involving public restrooms should be discussed on other occasions."

The initial restriction by the Ministry of Economy, Trade and Industry was imposed after considering the legal interest and safety of the great majority of women which might be lost, referring to the precedented examples. Unless such a restriction is extremely illegal, it is the judiciary's role to regard it as legal. Even if in an individual case, the judge may feel sympathetic to the plaintiff, it is a judicial responsibility to make the restriction legal, so long as it is within the legal justice standards.

The recent decision made by the Japanese Supreme Court is a case regarding the relief of an

individual, but this is not to be generalized to provide relief in all relevant cases. In order to solve relevant cases, a new system must be established. In order to do so, as this judge stated, it is urgent to discuss the issue. Therefore, to cope with the issue related to gender identity disorder, it is the legislature's role to reach the conclusion by the majority rule after intensive discussions.

To possibly damage the legal interest that the great majority of women have enjoyed so far and to allow the individual who gender-identified as a woman to use any women's restroom in the Ministry can be said to create a new right. As the Supreme Court Justice mentioned, it is necessary to discuss the issue. Therefore, the creation of a new right should be carried out by the legislative body.

In Japan, under the rule of law, the separation of the legislative, executive and judicial powers is strictly observed. The judicial power decides the final interpretation of laws and regulations through trials. In this system, if the Supreme Court makes a wrong judgement, there is no way to correct it. If there is a way, it is to appeal to the United Nations, international organ.

Thereby, we request the United Nations Human Rights Council to recommend that the decision made by the Japanese Supreme Court regarding the Ministry of Economy, Trade and Industry worker with gender identity disorder on July 11, 2023, should be withdrawn.

International Career Support Association  
Shunichi FUJIKI - Managing Director for the UN Geneva  
3478-1 Sayada Kumagaya Saitama 360-0023 JAPAN  
E-mail. mfhorn2002@gmail.com