

October 2021 | ISSUE 4

# JapanCoE25 Now and Then

Mr. Keiichi HAYASHI



## About yourself.

---

I retired from the Supreme Court of Japan early this year after four years as a Justice. Previously I served in the Japanese Foreign Service for 42 years during which I was posted in Europe four times (Moscow, London, Dublin and again London in that order) for more than thirteen years altogether, besides working in Tokyo, Singapore and Washington D.C. in between. I also held various positions in the International Legal Affairs Bureau of the Foreign Ministry in Tokyo for ten years including the job of the Bureau's Director-General, which helped my appointment to the bench of the Supreme Court. Currently I am a registered lawyer in the First Tokyo Bar Association and provide advice especially on international legal and geopolitical matters in the private sector.



JAPAN & Council of Europe  
25 YEARS



# NOW AND THEN

---

**COMPARED TO 25 YEARS AGO,  
DID THE RELATIONSHIP BETWEEN  
JAPAN AND EUROPE CHANGE?**



Yes, it has been steadily changing for the better, broader, deeper and stronger. There was significant cooperation already back 25 years ago. But since then, more concrete steps have been taken, including Japan's conclusion of the CoE Treaty for the mutual transfer of sentenced persons in 2003.

I recall with pleasure that I was responsible for its ratification process emphasizing in the parliamentary process the meaningful improvement in the correction and social rehabilitation of foreign sentenced persons. The judicial cooperation has made progress by the enhanced mutual visits of judges and scholars as well as the exchange of important judgements so that the respective sides can follow the legal development on the other side.

On the EU-Japan front, the most significant progress was made when the comprehensive Economic Partnership Agreement and the more political Strategic Partnership Agreement were concluded in 2018. These agreements will provide a solid basis to further enhance the EU-Japan cooperation in all aspects, including the judiciary, to a new, elevated dimension. While enhancing cooperation for a free and open Indo-Pacific, Europe and Japan now find more than ever one of the most reliable partners for concrete actions to maintain and promote freedom, democracy, rule of law and human rights all over the world.

## YOU 25 YEARS AGO

I had just completed my job as Director of Treaties Division in Tokyo and was transferred to London as Political Counsellor of the Embassy. My work there focused on the issues arising from the war-time mistreatment, or gross infringements of human rights, of the British prisoners of war taken in East and Southeast Asian war theatres, particularly in Singapore. How to achieve reconciliation, although the legal settlements were done in the Peace Treaty, was one of the most challenging aspects of my service in London. It coincided with the time of the last series of the IRA bombings before the achievement of peace through the Good Friday Agreement. I had to follow the development closely in order to ensure the safety of the Japanese citizens living and doing business in the UK, including Northern Ireland.

# JAPAN AS AN OBSERVER

---

## WHAT KIND OF COOPERATION DO YOU EXPECT FURTHER BETWEEN COE AND JAPAN IN THE COMING YEARS?



Compared with the world of 25 years ago, when the West, including the United States, EU and Japan, were still basking in the euphoria of the triumphant end of the Cold War, the global outlook has drastically changed today, apparently to the detriment of the free world. The fundamental liberal, democratic values most cherished by the Council of Europe and Japan are being increasingly challenged by autocratic regimes, particularly under the current COVID-19 crisis, including by spread of disinformation. Those who believe in such values may no longer enjoy the automatic majority everywhere and every time.

But Japan and CoE are convinced that we are not only on the right side but the winning side in history, although in the interim it looks an uphill battle. It would mean that in the next 25 years CoE and Japan should close our ranks to emphasize the importance of the basic values including freedom of expression and will qualitatively and quantitatively strengthen international cooperation in all aspects, for example, research on the impact of science and technology including AI on human rights. There will have to be more exchange of visits, information-sharing and strategic consultation in dealing with such challenges as well as influencing and persuading third parties, jointly or separately in well-coordinated manner.

Consequently, I envisage, among others, the current, sporadic exchanges of visits primarily for the sake of information gathering will be replaced by regular, well-planned consultations for rule-making and rule adjustment. The observer's status may be upgraded so that higher-level people would be willing to attend the meetings for, perhaps, more binding decisions. In a nutshell the cooperation between Japan and CoE will be morphed into a solid, conscious, organized efforts jointly to contribute to upholding the principles on which we both stand.

## YOU AND STRASBOURG

While in the International Legal Affairs Bureau, I had a chance to attend the meetings of the Committee of Legal Advisors on Public International Law (CAHDI), representing Japan as observer state. I was impressed with the breadth and depth of discussion, encompassing non-EU states such as Russia. I also enjoyed the chance to quickly acquaint myself with a number of my counterparts in Europe and even held a bilateral consultation outside CAHDI. More recently I revisited Strasbourg as Justice to attend Consultative Council of European Judges and also had an excellent lunch meeting with the President and a few other Judges of the European Court of Human Rights to further strengthen our bilateral cooperation. Again, it provided with me an invaluable opportunity to get to know the judges of European high courts.