

### **3. Law of Civil Procedure and Bankruptcy**

#### **Establishing Rules regarding international jurisdiction in international cases related to domestic disputes**

##### **1. Background:**

On April 18, 2018, the law for a partial amendment to Personal Status Litigation Act, etc. (Act No. 20 of 2018) was enacted and it has already come into effect on April 1, 2019. The law is designed to clear the revisions regarding international jurisdiction in international cases related to domestic disputes.

Before this amendment, there were no clear rules regarding the situations in which a Japanese court has the jurisdiction over personal status litigation and domestic relations cases with international factors. Therefore, Japanese courts which dealt with such cases had to decide whether the courts had the international jurisdiction over the cases or not under the precedent and reason. However, it had been required that international jurisdiction rules be made clear, in order to secure the party's predictability and legal stability about which country's courts are able to hear and judge the cases.

Therefore, the Legislative Committee for International Jurisdiction was established within the Legislative Council of the Minister of Justice to conduct concrete examinations. On April 25, 2016, the first meeting took place in the Committee, and in October 2017, "the outline of the amendment regarding the legislative designation of personal status litigation and domestic relations cases" drafted by the Committee was voted on and reported to the Minister of Justice. After that, a bill for the amendment was passed by both houses of the National Diet and promulgated on April 25, 2018.

##### **2. Main Provisions and Editorial Note:**

As mentioned above, this amendment has established the rules regarding the situations in which a Japanese court has jurisdiction over

personal status litigation and domestic relations cases with international factors. Because personal status litigation and domestic relations cases include various types of case, this amendment has stipulated rules regarding international jurisdiction by the case type which has a common nature. In addition, this revision has also established the situation as a jurisdiction cause in which a Japanese court is able to hear and make a judgement typically.

For example, a suit for divorce may be filed in a Japanese family in an international case which is a litigation related to personal status when:

- 1 The defendant lives in Japan, Article 3-2, item (i), Personal Status Litigation Act.
- 2 Both spouses are Japanese nationals, Article 3-2, item (ii), Personal Status Litigation Act.
- 3 Immediately prior to separation, the spouses lived together in Japan, and the plaintiff still lives in Japan, Article 3-2, item (iii), Personal Status Litigation Act.
- 4 The plaintiff still lives in Japan, and there are special circumstances because of which, if the Japanese courts were to conduct a trial and reach a judicial decision in the action, it would be equitable for either party or secure the realization of a fair and speedy trial, Article 3-2, item (vii).  
and so on.

Additionally, before the law for partial amendment to the Personal Status Litigation Act, etc. was adopted, there was no rule regarding the effect of a final and binding judicial decision about a domestic relations case which had been rendered by a foreign court. According to the law, Article 118, Civil Procedure Law applies to the decision, unless it conflicts with the nature, Article 79-2, Domestic Relations Case Procedure Act. This revision is based on the previous interpretation. Therefore, a final and binding judicial decision about a domestic relations case which has been rendered by a foreign court, as long as it meets the requirements of Article 118, Civil Procedure Law, shall be effective in Japan, except when it should belong exclusively to a certain foreign court, in consideration of the nature of the case.