

Japanese Law Explained

Outline on Civil Procedure in Japan

While being party to a civil legal proceeding is generally unwelcome and especially so to foreign residents in Japan, involvement may sometimes be unavoidable. In such cases, this article seeks to provide a preliminary understanding of Japanese civil procedures.

1. Court Structure

There are five types of courts in Japan; summary, family, district, high, and Supreme Court. Japan utilizes a three-tiered judicial system with appeals progressing to higher courts as in other countries. In most cases, parties first file a lawsuit with a summary, family, or district court, depending on the legal category of their case.

(1) Summary Courts

The Summary Court handles minor civil cases under 1.4 million yen and less serious criminal offenses.

(2) Family Courts

The Family Court handles domestic matters, including divorce, child custody, and juvenile delinquency.

(3) District Courts

The District Court is the primary court for major civil and serious criminal cases.

(4) High Courts

The High Court handles appeals (*koso*, 控訴) against judgments rendered by lower courts. There are eight High Courts in Japan, each covering a specific region. In addition, the Intellectual Property High Court, a special branch of the Tokyo High Court, specializes in intellectual property cases.

(5) The Supreme Court

The Supreme Court is the highest and final court of Japan. It handles appeals (*jokoku*, 上告) against judgments rendered by the High Courts and special appeals (*tokubetsu kokoku*, 特別抗告) prescribed under procedural laws. It is composed of the Chief Justice and fourteen other Justices. Cases are usually

heard by a group of five Justices or “Petty Bench,” where more important cases are decided by all fifteen Justices or “Grand Bench.”

2. Procedure in Civil Disputes

A civil lawsuit typically begins when a plaintiff files a written complaint (*sojo*, 訴状) with the appropriate court; most of the time this is a district court for most major cases. After the court accepts the complaint, it is sent to the defendant, who must then submit a written answer (*tobensho*, 答弁書) in response. The case proceeds through preparatory proceedings, during which both parties submit evidence and clarify legal issues. If they cannot settle, the court will make a final judgment (*hanketsu*, 判決). Parties that are dissatisfied with the outcome may appeal to a higher court.

3. Major Features of Japanese Civil Procedure

(1) Non-Disclosure of the Complaint and Other Information

In principle, court trials are open to the public; but most of the case information, including the written complaint, is not made public. Conversely, in the United States, most court records are publicly accessible by default and anyone can access them online.

(2) No Discovery

In Japan, evidence disclosure is more limited and controlled by the court. If the parties require documents from one another or from official agencies, they must specify the documents they want. This stands in contrast to the common law system, where pre-trial discovery allows for extensive evidence gathering from the opposing party.

(3) No Jury System

Unlike in some countries, there is no jury system in Japanese civil trials; instead, professional judges make all decisions based on the facts and the law.

(4) Settlement Preferred

Japan favors resolution through mutual agreement whenever possible, and the court may encourage settlement at various, litigative stages.

4. Why Miyake & Partners?

When litigating a case in Japan, working hand-in-hand with Japanese attorneys who have handled numerous civil lawsuits is essential. Our firm has extensive experience litigating cases and deep knowledge of Japan’s civil procedures. We know we can provide you with the necessary assistance no matter the subject matter of case. For further information, please contact us at the address below.

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