2017

Outline of Civil Procedure in JAPAN

Supreme Court of Japan

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I . INTRODUCTION

The current Code of Civil Procedure in Japan was enacted in 1996, and came into effect on January 1, 1998.

The primary objectives for establishing the current Code of Civil Procedure were to better match the civil justice system with current social needs, to make the civil justice system more accessible and easily comprehensible to the general public, and to achieve more appropriate and prompter court proceedings. Characteristics of the court proceedings under the current code are clarifying issues to be determined at an earlier stage of the proceedings, and examining witnesses and parties intensively (refer to II.B.2.g.(1)) with the focus on such issues to achieve a proper and prompt trial. In order to promote this style of trial, the pretrial procedures (refer to II.B.2.d.) have been improved so that the parties and the judge have a common understanding of what issues are to be determined and what kind of evidence exists, while the method of collecting evidence has been enhanced. Special court proceedings for small claims (refer to II.B.4.b.) have also been adopted to facilitate the public's use of the court proceedings under the current code.

Even though the current Code of Civil Procedure was established in 1996, it has already been revised several times with the intention of further enhancing and speeding up court proceedings. For example, disposition of collection of evidence prior to filing of action (refer to II.B.2.a.) was the result of these revisions, and a system of technical advisors (refer to II.B.2.f.) has been adopted to better handle cases that require expert knowledge.

In terms of the types of civil suits, administrative case litigation exists to resolve disputes between individuals or private entities and public authorities. The Administrative Case Litigation Act stipulates the basic procedures for such litigation, separately from the Code of Civil Procedure (refer to II.A.). The Administrative Case Litigation Act, established in 1962,was revised in 2004, and the revision established new types of litigation in order to prepare more effective redress for the rights and interests of citizens.

The courts of Japan handle not only the civil suits and administrative case litigation described above, but also various other types of civil proceedings, such as Civil Provisional Remedy (refer to III.B.), Civil Execution (refer to III.A.), Insolvency proceedings (refer to III.C. & D.), Civil Conciliation (refer to III.E.), Protection Orders (refer to III.F.), and Labor Tribunal Proceedings (refer to III.G.), and these together form the entire civil judicial system in Japan.

II. CIVIL SUITS

A. Types of civil suits

Civil suits encompass a wide variety of cases, but primarily they can be categorized into the following two types.

The first type of suit concerns disputes mainly over proprietary rights between individuals or private entities: for example, cases demanding repayment of loans, seeking evacuation from land or buildings, or seeking compensation of damage caused by traffic accidents. This type of civil suit is called an "ordinary suit," and its proceedings are held in accordance with the Code of Civil Procedure.

Suits demanding payment of negotiable instruments or checks have a simplified special proceeding. Any plaintiff seeking payment of negotiable instruments or checks can select whether to file a suit through this special proceeding or as an ordinary suit.

The second type is called administrative case litigation, which is equivalent to a "judicial review" under common law jurisdiction. Administrative case litigation resolves disputes concerning rights and obligations between individuals or private entities and public authorities (i.e. the state or local government), such as disputes concerning tax or driving licenses. Such litigation by nature often has a profound impact on the public interest, in contrast to ordinary civil suits (the first type), which resolve disputes between individuals or private entities only. Therefore, such trials are held in accordance with the Administrative Case Litigation Act, which is a special provision of the Code of Civil Procedure. The Code of Civil Procedure is applied only to matters which are not provided for in the Administrative Case Litigation Act. The main types of administrative case litigation are as follows.

(i) Action seeking the revocation of an administrative disposition and any other act constituting the exercise of public authority by an administrative agency

(ii) Action seeking the declaration of the existence or non-existence of or validity or invalidity of an administrative disposition

(iii) Action seeking the declaration of illegality of an administrative agency's failure to make an administrative disposition

(iv) Action seeking an order to the effect that an administrative agency should make an administrative disposition (mandamus action)

(v) Action seeking an order to the effect that an administrative agency should not make an administrative disposition (action for an injunctive order)

(vi) Action on a legal relationship under public law and any other action relating to a legal relationship under public law, for an action for a declaratory judgment

(vii) Action seeking correction of an act conducted by a public agency, of the State or of a public entity which does not conform to laws, regulations, and rules, which is filed by a person based on his/her status as a voter or any other status that is irrelevant to his/her own legal interest,

Actions for damages on the grounds that a

public officer has unlawfully exercised public authority (i.e. actions for state compensation) are handled as ordinary civil suits (the first type).

B. Procedure for civil suits

1. Jurisdiction and court of first instance

a. Jurisdiction

Which court has jurisdiction over each case is determined by the Court Act, the Code of Civil Procedure, and other related laws.

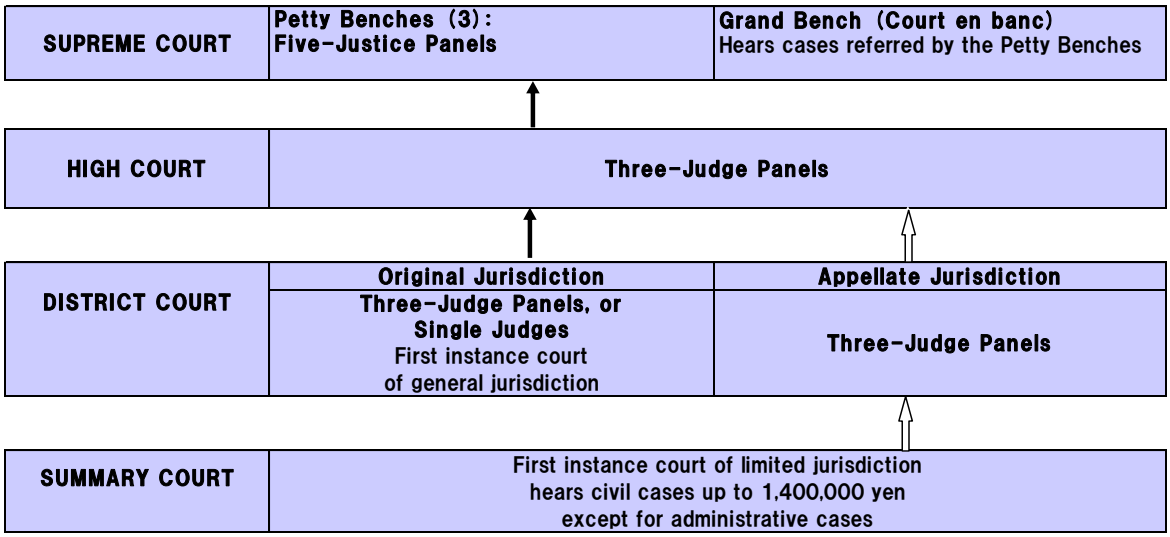
Normally, the court of first instance is a summary court or a district court. There are 438 summary courts and 50 district courts in Japan. Summary courts have jurisdiction as the court of first instance where the amount in controversy is 1.4 million yen or less, while district courts have jurisdiction for amounts over 1.4 million yen.

Under the Code of Civil Procedure, a plaintiff may file an action with the court that has jurisdiction over the defendant's domicile or residence. The Code of Civil Procedure also stipulates additional jurisdiction. For example, an action for damages due to a tort may also be filed with the court having jurisdiction over the place where the tort took place, and an action relating to real property may be filed with the court having jurisdiction over the place where the real property is located.

b. Court

At a summary court, a single judge handles all cases. At a district court, a single judge handles a majority of cases, but where there is a special legal provision, a panel of three judges handles the case; for example an appeal against a judgment rendered by a summary court is handled by a panel. Additionally, even where there is no special legal provision, a court may decide at its discretion to hold proceedings under a panel.

Jurisdiction and Procedure of Civil Cases



Note:

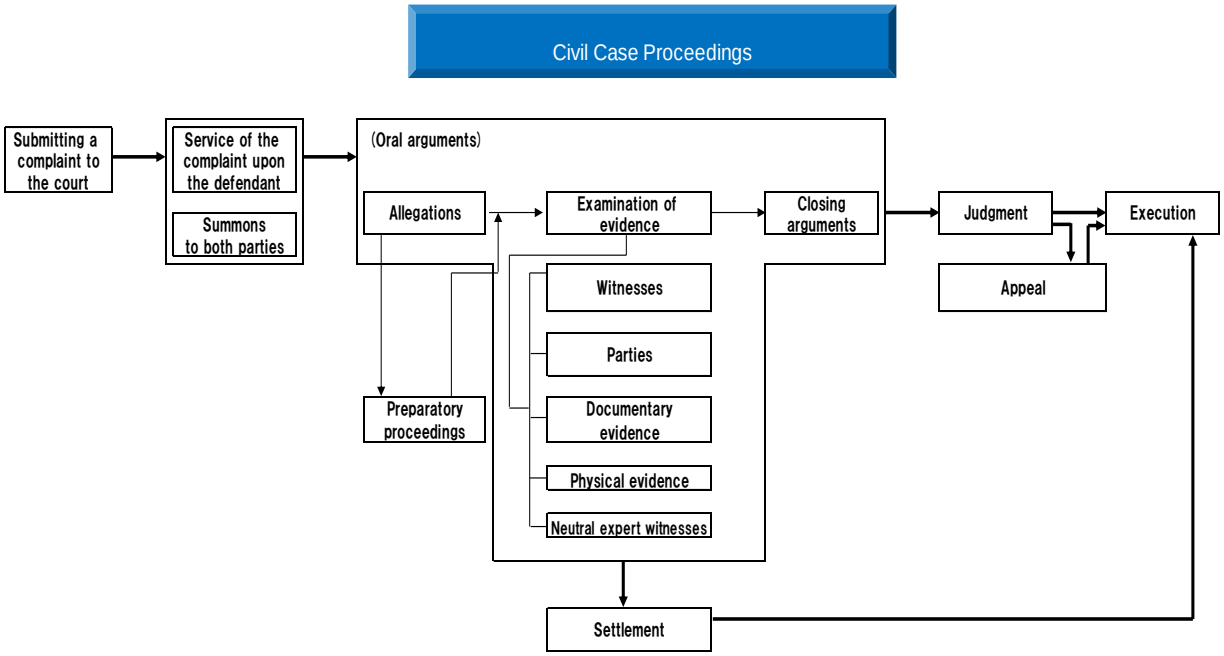
1) Civil cases include administrative cases, and the district court has original jurisdiction over most administrative cases.

2) Where both parties agree, a direct appeal may be filed against a judgment of the summary court to the high court or against a judgment of the district court to the Supreme Court.

3) The high court has original jurisdiction over some special cases, such as cases related to elections and cases to revoke decisions made by the Japan Marine Accident Tribunal.

4) The Intellectual Property High Court, established as of April 1, 2005, within the Tokyo High Court as a special branch, hears exclusively suits against appeal/trial decisions made by the Japan Patent Office, as the court of first instance. See its website (http://www.ip.courts.go.jp). The website also shows its jurisdiction over intellectual property cases.

2. Court proceedings in the first instance



a. Inquiry and disposition of collection of evidence prior to filing of action

In order to enhance pre-filing preparations for court cases, any person who intends to file an action may notify the intended defendant of the action, make inquiries to the intended defendant with regard to matters that would be obviously necessary in preparing allegations or evidence, and request the intended defendant to submit a response in writing. Furthermore, before an action is filed, the court may, at the request of a party and after hearing the opinions of the opposite party, commission (i) the holder of a document to submit it to the court, (ii) government agencies or other organizations to conduct necessary examinations, and (iii) an expert to state his/her opinion based on their expert knowledge and experience.

b. Commencement of the suit

(1) Filing of action

A civil suit commences with a plaintiff filing a document (complaint) to the court that has jurisdiction over the case.

Table 1. Changes in the number of ordinary suits handled by the district court in the first instance

Year	Newly received	Ended	Pending
1989	110,970	115,502	106,561
1990	106,871	112,020	101,412
1991	112,080	111,958	101,534
1992	129,437	122,780	108,191
1993	143,511	137,934	113,768
1994	146,392	144,693	115,467
1995	144,479	146,651	113,295
1996	142,959	145,858	110,396
1997	146,588	147,373	109,611
1998	152,678	156,683	105,606
1999	150,952	154,395	102,163
2000	156,850	158,781	100,232
2001	155,541	157,451	98,322
2002	153,959	155,755	96,526
2003	157,833	159,032	95,327
2004	138,498	143,294	82,913
2005	132,654	133,006	82,561
2006	148,767	142,976	88,352
2007	182,290	172,885	97,757
2008	199,522	192,233	105,046
2009	235,508	214,512	126,042
2010	222,594	227,435	121,201
2011	196,366	212,491	105,076
2012	161,313	168,230	98,159
2013	147,390	149,930	95,619
2014	142,487	141,012	97,094
2015	143,816	140,999	99,911

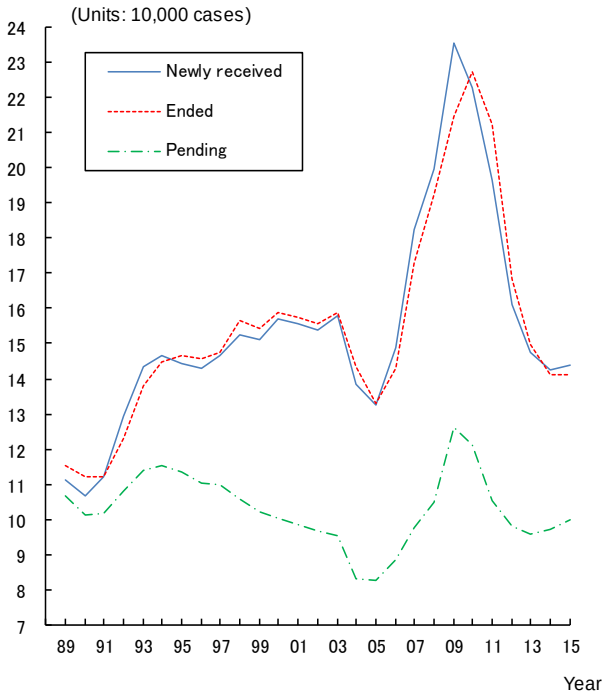
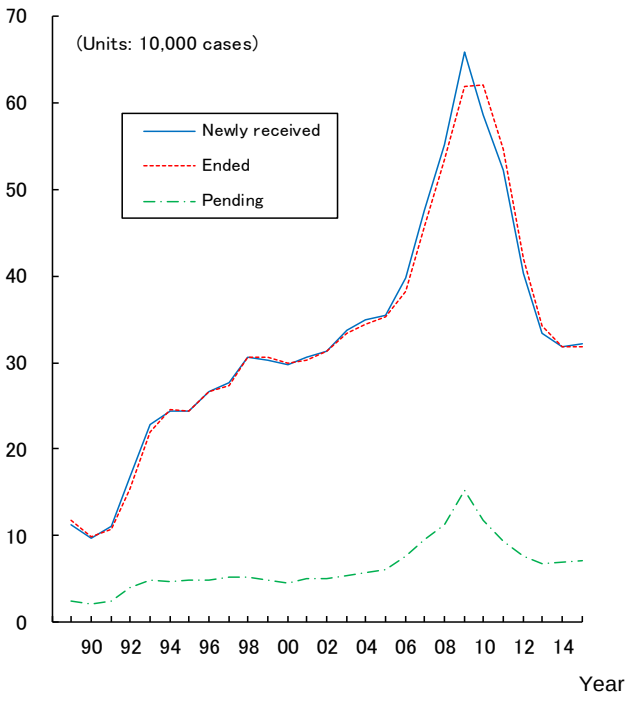


Table 2. Changes in the number of ordinary suits handled by a summary court in the first instance

Year	Newly received	Ended	Pending
1989	112,472	118,019	24,083
1990	96,635	99,545	21,173
1991	110,942	107,102	25,013
1992	168,588	153,566	40,035
1993	227,791	219,027	48,799
1994	244,131	245,628	47,302
1995	244,865	243,534	48,633
1996	266,573	266,645	48,561
1997	276,120	273,087	51,594
1998	306,169	305,801	51,962
1999	302,690	306,349	48,303
2000	297,261	299,579	45,985
2001	305,711	301,997	49,699
2002	312,952	312,263	50,388
2003	337,231	334,188	53,431
2004	349,014	344,580	57,865
2005	355,386	352,449	60,802
2006	398,261	382,753	76,310
2007	475,624	456,968	94,966
2008	551,875	533,742	113,099
2009	658,227	618,432	152,894
2010	585,594	620,587	117,901
2011	522,639	547,140	93,400
2012	403,309	420,728	75,981
2013	333,746	342,316	67,411
2014	319,071	317,719	68,763
2015	321,666	319,090	71,340



(Note) Does not include those transferred from small claims lawsuits to ordinary suits.

(2) Requirements for a complaint

A complaint shall specify the parties and contain the object and statement of the claim. The object of the claim is equivalent to the conclusion of a complaint, and refers to the judgment the plaintiff is seeking, such as claiming for payment of a specific amount of money, or demanding evacuation from a specific real property. The statement of the claim expresses the facts needed to identify the legal basis for the plaintiff's claim. A complaint shall also contain specific facts giving rise to the claim, and important facts and evidence relevant to the anticipated issues. In addition, the plaintiff shall attach to the complaint copies of material documentary evidence and a fiscal stamp of the amount stipulated by law as the filing fee.

Where a defect is found in a complaint in terms of specifications by the parties, the object or statement of the claim, or the sufficiency of the filing fee, the presiding judge shall specify a reasonable period and order the plaintiff to correct it within that period. If the plaintiff fails to do so, the presiding judge shall dismiss the complaint (and thus terminate the suit), or if the correction is insufficient, the presiding judge shall order the plaintiff to correct the defect once again. The presiding judge may direct a court clerk to urge the plaintiff to make the necessary corrections.

Because the plaintiff has the right and responsibility to specify the claim and decide on the extent of the relief, the court may not render a judgment that orders a payment in excess of the amount demanded by the plaintiff.

(3) Service of complaint

The complaint shall be served upon each defendant. Affairs concerning service shall be administered by a court clerk. Normally, a summons for the first date for oral argument is served together with the complaint. A court clerk normally uses a special postal service for delivery (special service) so as to confirm that the documents have been properly received. If the place where the service is to be made — for example, the defendant's domicile or residence — is unknown, a court clerk may make a service by posting a notice at the posting area of the court upon petition filed by the plaintiff (service by publication). If it is not possible to serve a complaint on the defendant, the complaint shall be dismissed.

(4) Answer

Any defendant who receives a service of complaint and a writ of summons shall submit a written answer. The written answer shall contain statements of the answer to the object of the claim. Normally, the defendant answers that the action or the claim by the plaintiff should be dismissed.

The defendant shall also clarify whether to admit or deny the facts stated in the complaint. In cases denying the facts, the defendant shall give the reason. Additionally, the written answer shall contain specific facts that are required to extinguish the rights claimed by the plaintiff, and material facts and evidence related to said facts. The defendant shall submit copies of material documentary evidence together with the written answer in the same way as the plaintiff when submitting the complaint.

Single-judge courtroom

1 Judge

2 Court clerk

3 Court secretary

4 Plaintiff's counsel

5 Defendant's counsel

c. First date for oral argument

(1) Date for oral argument

The date for oral argument refers to the proceedings in which both parties argue their case and submit orally their allegations and evidence to the court. Oral argument shall be held in a courtroom open to the public on a date and time designated by the presiding judge.

The court cannot render a judgment based on allegations or evidence that have not been submitted on the date for oral argument. Parties or their statutory agents shall appear on the date for oral argument, make allegations based on the brief that they have submitted to the court in advance, and submit evidence in support of their allegations. With regard to any facts that neither party denies, the court must render a judgment on the assumption that said facts exist, and neither party needs to prove such facts. However, a party must prove the allegations denied by the opponent.

(2) First date for oral argument

On the first date for oral argument, the plaintiff makes their allegations in accordance with the complaint and other documents submitted in advance, and submits evidence to support the allegations. Also, the defendant rebuts the allegations in accordance with a written answer submitted in advance, along with any rebuttal evidence.

(3) Absence of a party on the first date for oral argument

Even if one party is absent on the first date for oral argument, if said party has submitted a complaint, written answer or any other documents in advance, the court may deem the party to have stated matters as contained in these documents. However, if the defendant is absent on the first date for oral argument without submitting a written answer or any other documents in advance, or even if submitting such a document, but without expressing their intention to deny the facts that the plaintiff

alleges in the complaint, the defendant will be deemed to have admitted all the facts alleged by the plaintiff in the complaint, and the court will make a judgment to uphold the plaintiff's claim.

(4) Proceedings on the first date for oral argument

On the first date for oral argument, after the plaintiff and defendant submit and rebut the allegations as per their complaint and written answers, the court considers how to proceed with the case properly and promptly. The court may conclude oral argument and render a judgment upholding the claims of the plaintiff if the defendant does not deny the facts alleged by the plaintiff or counter the plaintiff's allegations. In this case, the court may render a judgment by stating the judicial conclusion (the main text of the judgment) and the gist of the reasons orally, without preparing the judgment document that is normally required for an ordinary judgment, and rather these matters are recorded in a document prepared by the court clerk (record).

Conversely, if the facts are disputed between the parties, the court may conduct the following proceedings to arrange issues and evidence in order to narrow down the points in the dispute (issues) that are to be determined by evidence, and to prepare to conduct examinations, such as of the witness, efficiently and intensively within a short period regarding those issues.

d. Proceedings to arrange issues and evidence

(1) Overview

There are three types of proceedings to arrange issues and evidence, namely (i) preliminary oral argument, (ii) preparatory proceedings, and (iii) preparatory proceedings by means of documents, and the court selects the most appropriate proceedings in accordance with the nature and details of the case. In the proceedings to arrange issues and evidence, both parties shall clarify their allegations and their supporting evidence, and indicate which part of the opposite party's allegations are denied, and whether to admit that the documentary evidence submitted by the opposite party is authentically created. Through this process, both parties determine whether they need to amend or supplement the allegations and/or submit additional evidence, and the court and both parties share an understanding of the extent of the facts to be established by proof, such as examination of a witness and of a party him/herself. Prior to the date for proceedings to arrange issues and evidence, both parties need to send briefs, which include their allegations and documentary evidence to be submitted, to the court and the opposite party. The judge may set a period for submitting a brief and evidence. A party may submit an inquiry to the opponent and request the opponent to make a response with regard to the matters necessary for preparing allegations or evidence. If there are any contradictions or uncertainties in the party's allegations or evidence, the court may question the party and order the party to clarify the contradictions or uncertainties by the next date.

The court, when it finds it appropriate, upon closing the proceedings to arrange issues and evidence, may have the parties submit a document summarizing the proceeding results, or have the court clerk state the proceeding results in the record.

Parties are expected to submit allegations and request examination of evidence before the close of the proceedings to arrange issues and evidence, and if a party submits a new allegation or requests a new examination of evidence after the close of proceedings, at the request of the opponent, said party shall explain the reasons for the delay in making the new allegation or requesting examination of evidence. If there are no justifiable grounds for such delay, the new allegation and request for examination of evidence may be dismissed.

(2) Preliminary oral argument

Preliminary oral argument is a type of oral argument specifically designed to facilitate arranging issues and evidence. Because it is a type of oral argument, it is held in a courtroom open to the public. However, the courtroom for preliminary oral argument is different from that for ordinary oral argument. Namely, there is no bench, exclusively for a judge, nor individual desks for the plaintiff or defendant in the courtroom for preliminary oral argument, but rather, there is a round or oval table, around which the judge and both parties sit. In this type of courtroom, the judge and parties can hold discussions in a less formal atmosphere than in an ordinary courtroom, and it is also easier to discuss issues while examining the same evidence. During preliminary oral argument, a wide spectrum of actions can be taken to arrange issues and evidence, including examination of the evidence. All of the allegations and evidence presented for preliminary oral argument constitute the materials on which the court renders a judgment.

(3) Preparatory proceedings

Preparatory proceedings are held to prepare for future oral argument. Different from oral argument, these proceedings do not need to be open to the public, and are normally held in a room other than a courtroom (argument preparation room). When a panel of three judges handles a case, the panel may allow panelists to preside over the preparatory proceedings; in this case, the presiding judge designates one or two members of the panel as authorized judges, who preside over the preparatory proceedings. Certain restrictions apply to preparatory proceedings; for example, no witness can be examined during preparatory proceedings. Telephone or video conference systems can be used for preparatory proceedings if it is difficult for either party to appear before the court because, for example, he/she resides in a remote place.

Videoconference

(4) Preparatory proceedings by means of documents

Preparatory proceedings by means of documents are conducted to arrange issues and evidence by submitting briefs without the parties' appearance in court, and are mainly used when both parties live in a remote place from the court. Telephone or video conference systems may be used for preparatory proceedings by means of documents if courts and parties need to have discussions with regard to issues and evidence.

Parties exchange briefs and other documents, such as copies of documentary evidence to be examined later, and submit these to the court during preparatory proceedings by means of documents. A court sets the time limit for submitting such briefs and requesting examination of evidence.

e. Date for scheduling conference

The court may designate a date at any time to share understanding of the relationship between the evidence and issues, or to consult with the parties as to the progress of court proceedings. Telephone or video conference systems may be used for these proceedings. Parties cannot submit allegations or evidence on the date for the scheduling conference.

1 Judge

2 Technical advisor

3 Party

f. Technical advisor

Recently, demands have appeared for experts to appropriately participate in litigation to properly hear cases in which specialized knowledge on fields such as medical care, architecture, or intellectual property is required. The technical advisor system was adopted following the revision of the Code of Civil Procedure in 2003 in order to meet these demands. The court may order certain experts to participate in the proceedings to arrange issues and evidence. Technical advisors are required to explain technical matters and the meanings of special terms included in the evidence and allegations submitted by the parties based on their expertise. The involvement of experts is expected to facilitate the prompt arrangement of issues and evidence in cases where specialized knowledge is required. The court may also order technical advisors to participate in the examination of evidence and the settlement proceedings to explain technical matters. Explanations provided by technical advisors are only used on a supplementary basis so that the judge and parties can fully understand the allegations and evidence, and are not handled as evidence in their own right; therefore, they are not used as materials on the basis of which the court determines the existence of the facts disputed between the parties.

g. Examination of evidence

(1) Overview

After issues are identified through oral argument and proceedings to arrange issues and evidence, in order to make a decision on these issues, the court conducts an examination of witnesses, including the parties. Japan does not employ the jury system in civil cases, and so judges are tasked with both fact finding and application of laws and regulations.

Generally, the examination of witnesses should be concentrated into as short a timeframe as possible, and it is preferable to complete such examinations within a day, or on consecutive days in principle. Each party may make a request to the court for examination of witnesses in order to prove facts advantageous to him/herself. When making a request for examination of a witness the party shall submit a document explaining what the witness would be questioned on. In addition, when an examination of witnesses is requested, written statements of those who would be examined are often submitted as documentary evidence. The court then decides whether to conduct an examination of witnesses or not based on the results of the arrangement of issues and evidence.

When the court decides to conduct an examination of witnesses, they are summoned. Witnesses are basically obliged to testify on all questions after swearing an oath. In principle, the party who requested the examination of the witness questions him/her first, after which the other party questions the witness. The judge(s) normally pose their questions after the parties have completed their questioning. Rightfully, the presiding judge may pose questions whenever he/she considers it necessary.

(2) Examination via videoconference system

The court can conduct an examination via videoconference system in the event that the witness lives in a place remote from the court, or that the witness may be mentally stressed or significantly harmed in giving his/her testimony in the same location as the judge and/or the parties present. In this case, the witness appears in a different room or courthouse from the courtroom attended by the judge, and is questioned and answers via the cameras and monitors of the videoconference system.

(3) Expert testimony and other examinations of evidence

The court, at the request of a party, may appoint neutral experts to submit their opinions based on their expert knowledge and experience in such areas as medicine and architecture. This is called expert testimony. The experts' opinions are not binding on the judgment of the court, but are considered as evidence taken to supplement the judge's knowledge and experience. Apart from expert testimony, each party may submit written opinions from experts selected by him/herself as documentary evidence, and request an examination of the experts as witnesses, but expert testimony is different from this type of evidence, which is submitted or select by the parties, in that the court appoints a neutral and fair expert as an expert witness. There is a special committee within the Supreme Court to help the lower courts find an appropriate expert as a court-appointed expert witness in medicine and architecture.

Other proceedings for the examination of evidence are as follows.

(i) Observation: The judge perceives the shape,

phenomenon, and status of the target object by using the five physical senses

(ii) Commission to send document: The court commissions the holder of a document to send it to the court.

(iii) Commission of examination: The court commissions government agencies, and other organizations to conduct the necessary examinations.

(4) Rules of evidence

The Code of Civil Procedure and the rules of Civil Procedure stipulate several rules for examination, such as the order of questioning the witness and restrictions on leading questions. However, unlike under common law, there are generally no strict rules of evidence that cover a broad area of civil suits in Japan. How the evidence is evaluated in the fact-finding process, namely determination of the existence or nonexistence of the disputed facts based on the result of the examination of evidence, is entirely at the judge's discretion.

However, in principle, the court may not conduct an examination of evidence without being petitioned by a party. An exception is an examination of the party, which the court may conduct without being petitioned by a party.

h. Conclusion of arguments

When the court, after closing the examination of evidence and considering all allegations and evidence, is convinced of whether or not the claim sought by the plaintiff should be granted, the court concludes its oral argument and designates the date for rendering judgment.

i. Judgment

The judgment is the official final decision on the case made by the court. The judgment basically becomes effective when it is rendered by the presiding judge based on the document prepared in advance (judgment document). The judgment document shall state, among other things, the main text, i.e. conclusion, the allegations of the parties, and the reason for the determination, and shall be served upon the parties.

The defeated party can appeal to the court of second instance. If an appeal is not filed within the period specified by the law, generally, the decision cannot be changed. A judgment that has such status is called a "final and binding judgment." A final and binding judgment is binding on both parties and certain other people, and allegations that contradict the final and binding judgment may not be submitted in a later civil suit between the same parties. This effect of the final and binding judgment is known as "*res judicata.*" The winning parties of final and binding judgments are entitled to compulsory execution. Upon issuing a judgment, the court may declare that said judgment is executable even before it becomes final and binding (declaration of provisional execution). The parties may carry out compulsory execution based on the judgment with the declaration of provisional execution, but the compulsory execution may be revoked later; for example when the appellate court orders a revocation.

j. Conclusion of suits not by judicial decision

(1) Settlement

Many cases are concluded by settlements between the parties in court (judicial settlement). The court may encourage the parties to settle at any time while the case is pending before it.

When a judicial settlement is established, its details are recorded in the record of settlement. A record of settlement has the same effect as a final and binding judgment.

In order to establish a judicial settlement, basically, both parties must appear in court on the designated date. However, if the court sends a document containing the terms of settlement to one of the parties, and the party submits a document stating that he/she accepts the terms to the court before the designated date, then a settlement can be established without the appearance of the party. In this case, if the opposing party appears in court on the designated date, and accepts the same terms of settlement that the other party has accepted, it is considered that a settlement has been established. This procedure is mainly used in cases where appearing in court is difficult due to either party residing in a remote place.

(2) Withdrawal of action

After filing of an action, the plaintiff may withdraw it at any time prior to a judgment being final and binding without explaining the reason, and if the plaintiff withdraws the action, the civil suit is automatically concluded. However, after the defendant has submitted allegations about the plaintiff's claim, withdrawal is not effective without the consent of the defendant. Nonetheless, in certain cases – such as if the defendant does not make any objection within two weeks of receiving a service of a document indicating the plaintiff's intention to withdraw the action – the defendant shall be deemed to have consented to the withdrawal of the action.

If neither party appears on the date for oral argument or preparatory proceedings on two consecutive occasions, it shall be deemed that the action has been withdrawn.

(3) Waiver or acknowledgment of claim

If the plaintiff states that he/she waives the claim or if the defendant affirms and acknowledges the plaintiff's claim, the suit is concluded. Waiver of claim and acknowledgement of claim are stated on the record, and have the same effect as a final and binding judgment.

3. Appeal

a. Appeal to the court of second instance

The defeated party in the first instance may appeal to the court of second instance. In principle, a high court handles appeals against judgments rendered by district courts, whereas a district court handles appeals against judgments rendered by summary courts. Appellate cases are generally handled by a panel of three judges.

An appeal to the court of second instance may be filed by submitting the document (petition for appeal) to the court of first instance (court of prior instance) within two weeks from the day on which the appellant received a service of the judgment document. If the requirements stipulated under the law are not complied with for an appeal, and it is obvious that such defect cannot be corrected, the court of prior instance shall dismiss the appeal without prejudice. The appellant is not required to describe the grounds for the appeal in their petition, but if the petition does not contain grounds for the appeal, the appellant shall submit a written statement of the grounds for the appeal to the court which handles the appeal (court of second instance) within fifty days of submitting the petition for

appeal. The appellant can allege an error in the judgment in either the application of the law or fact finding as grounds for the appeal. The presiding judge of second instance may, by specifying a reasonable period, direct the other party to the appeal (the appellee) to submit a written counterargument against the grounds for the appeal.

Proceedings in the second instance are deemed as a continuation of those in the first instance, and the court of second instance may conduct proceedings to arrange issues and evidence, examine evidence, and find facts. However, adjudication of the second instance is restricted to the extent of the judgment in the first instance (judgment in prior instance) that the appellant demands to change.

The court of second instance renders a judgment revoking the judgment in prior instance or dismissing the appeal after examining the fact finding and the application of the law by the judgment in prior instance.

Table 3. Changes in the number of cases appealed to the high court (ordinary suits)

Year	Newly received	Ended	Pending
1989	11,649	11,549	10,451
1990	12,094	11,845	10,700
1991	12,463	12,548	10,615
1992	13,128	12,478	11,265
1993	14,041	13,606	11,700
1994	14,570	14,460	11,810
1995	14,906	15,221	11,495
1996	15,601	15,427	11,669
1997	15,474	15,386	11,757
1998	14,745	16,140	10,362
1999	15,982	16,541	9,803
2000	16,387	17,267	8,923
2001	16,504	16,597	8,830
2002	16,237	16,674	8,393
2003	16,003	16,661	7,735
2004	15,893	16,337	7,291
2005	15,308	15,991	6,608
2006	15,085	15,290	6,403
2007	15,065	15,141	6,327
2008	15,124	15,176	6,275
2009	15,383	15,102	6,556
2010	18,909	17,826	7,639
2011	18,731	19,205	7,165
2012	18,569	18,986	6,748
2013	16,522	17,072	6,198
2014	15,310	15,308	6,200
2015	15,066	15,623	5,643

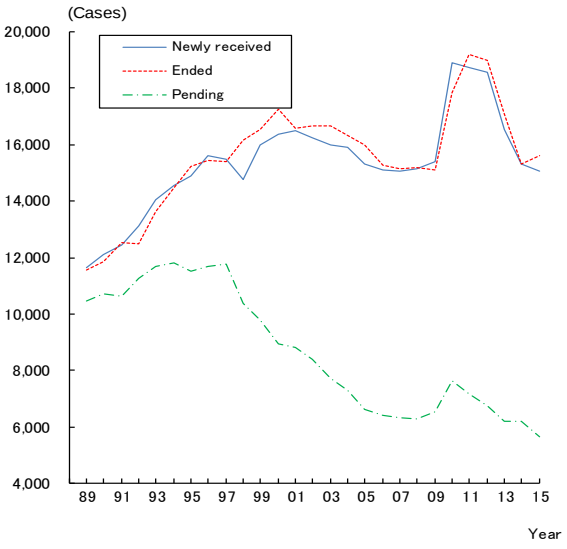
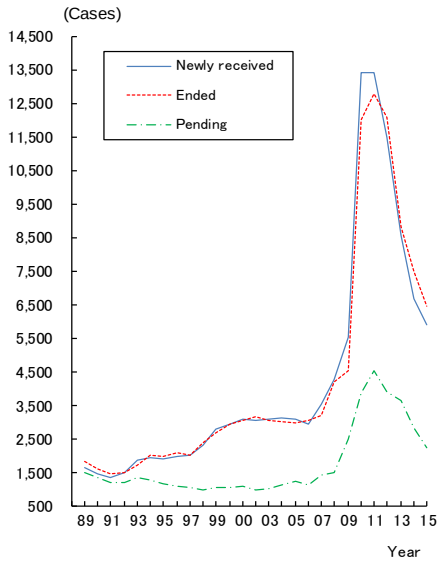


Table 4. Changes in the number of cases appealed to the district court (ordinary suits)

Year	Newly received	Ended	Pending
1989	1,644	1,835	1,508
1990	1,449	1,616	1,341
1991	1,362	1,485	1,218
1992	1,488	1,508	1,198
1993	1,868	1,722	1,344
1994	1,956	2,021	1,279
1995	1,895	1,990	1,184
1996	1,999	2,095	1,088
1997	2,023	2,038	1,073
1998	2,307	2,408	972
1999	2,781	2,699	1,054
2000	2,957	2,959	1,052
2001	3,099	3,051	1,100
2002	3,053	3,165	988
2003	3,096	3,064	1,020
2004	3,140	3,032	1,128
2005	3,098	2,987	1,239
2006	2,962	3,075	1,126
2007	3,527	3,220	1,433
2008	4,261	4,203	1,491
2009	5,529	4,524	2,496
2010	13,421	12,027	3,890
2011	13,418	12,785	4,523
2012	11,483	12,101	3,905
2013	8,590	8,829	3,666
2014	6,674	7,514	2,826
2015	5,895	6,466	2,255



b. Final appeal

The party defeated in the court of second instance may then appeal to the final appellate court. In principle, the Supreme Court handles appeals against a judgment rendered by a high court, whereas a high court handles appeals against a judgment rendered by a district court. Upon the agreement of both parties, one of them may appeal directly against a judgment rendered by a summary court in the first instance to the high court, or against a judgment rendered by a district court in the first instance to the Supreme Court (direct appeal), bypassing proceedings and decisions in the court of second instance. At the Supreme Court, normally, a Petty Bench comprising five justices handles final appeals, but the Grand Bench comprising all fifteen justices of the Supreme Court handles cases where the Supreme Court overturns its own precedent or where it declares any law or order to be unconstitutional. In the high court, a panel comprised of three judges handles final appeals.

Petty Bench courtroom of
Supreme Court

The court that handles a final appeal (final appellate court) only examines questions of law bound by the facts as determined by the judgment against which the appeal is made (judgment in prior instance). A final appeal may only be filed on specific grounds as stipulated under the Code of Civil Procedure (grounds for final appeal), such as misinterpretation of the Constitution in the judgment in the prior instance.

The final appeal must be filed by submitting the document (petition for final appeal) to the court that rendered the judgment in prior instance (court of prior instance) within two weeks from the day on which the appellant received a service of the judgment document. The appellant is not required to detail the grounds for their final appeal in the petition for final appeal, but if the petition for final appeal does not state any grounds for final appeal, the appellant shall submit a written statement of the grounds for

final appeal to the court of prior instance within 50 days from the day on which the appellant received a service of the document that notifies the filing of the final appeal issued by the final appellate court (written notice of the filing of a final appeal). The court of prior instance or final appellate court, by an order, shall dismiss the final appeal without prejudice in the following cases: (i) where the requirements stipulated under the law for submitting a final appeal are not complied with, and such defect cannot be corrected; (ii) where a statement of grounds for final appeal is not submitted within the stipulated period; and (iii) where the grounds for final appeal are not stated in accordance with the form stipulated by the Rules of the Supreme Court. In all other cases, the final appellate court considers whether there are valid grounds for a final appeal or not, and if the court judges that grounds for said final appeal exist, the court shall quash the judgment in the prior instance. In this instance, the final appellate court generally remands the cases to the court of prior instance. If the final appellate court finds no valid grounds for a final appeal, the court shall, in principle, dismiss the final appeal. The grounds for a final appeal vary slightly depending on which court handles the case; violations of laws or regulations that apparently affect the judgment constitute grounds for a final appeal where a high court is the final appellate court, but not when the Supreme Court is the final appellate court. However, the Supreme Court may quash the judgment in the prior instance if it finds a violation of laws or regulations that apparently affects a judgment.

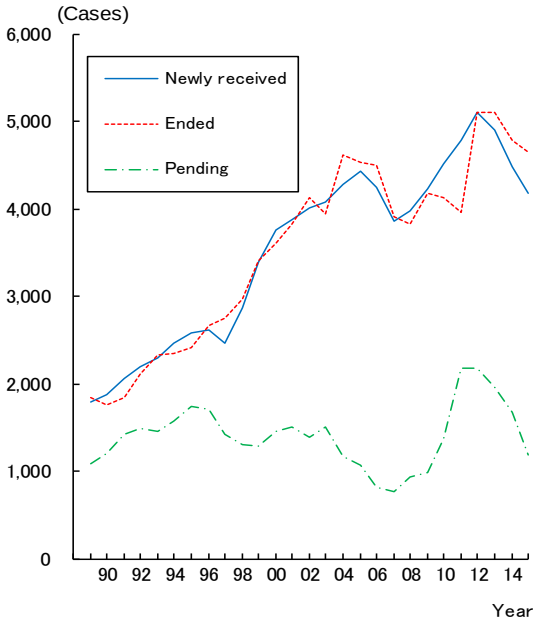
Against a final judgment made by a high court as the final appellate court, an appeal may further be filed with the Supreme Court only on the grounds that the judgment contains a misconstruction of the Constitution or any other violation of the Constitution (special appeal to court of last resort).

When the Supreme Court would be the final appellate court, the party may file a petition to the Supreme Court to accept a case as the final appellate court regardless of whether there are grounds for a final appeal or not (petition for acceptance of final appeal). This system was introduced from when the current Code of Civil Procedure came into effect in 1998. When this petition for acceptance of a final appeal is filed, the Supreme Court, by an order, may accept the appeal as the final appellate court where it finds that the judgment in the prior instance involves material matters concerning the construction of laws and regulations; for example, where the judgment in the prior instance contains a determination that is inconsistent with precedents rendered by the Supreme Court (order to accept final appeal). However, the Supreme Court has discretion, and so it may decide not to accept the appeal as the final appellate court, even though the case involves material matters concerning the construction of laws and regulations. When the Supreme Court accepts the petition for the final appeal, it is deemed that the party has filed a final appeal, and thereafter, generally the procedure is the same as in the case when a final appeal is filed. If the party's grounds for the appeal fall within both grounds for a final appeal and for petition for acceptance of a final appeal, the party may file both.

Table 5. Changes in the number of cases appealed to the Supreme Court (ordinary suits)

※ Petition for acceptance of final appeal is included for 1998 and onward.

Year	Newly received	Ended	Pending
1989	1,799	1,842	1,084
1990	1,870	1,753	1,201
1991	2,059	1,843	1,417
1992	2,188	2,114	1,491
1993	2,294	2,327	1,458
1994	2,472	2,352	1,578
1995	2,579	2,408	1,749
1996	2,621	2,661	1,709
1997	2,470	2,759	1,420
1998	2,865	2,978	1,307
1999	3,383	3,399	1,291
2000	3,761	3,601	1,451
2001	3,880	3,826	1,505
2002	4,008	4,133	1,380
2003	4,084	3,953	1,511
2004	4,277	4,616	1,172
2005	4,427	4,538	1,061
2006	4,247	4,499	809
2007	3,869	3,907	771
2008	3,977	3,822	926
2009	4,234	4,184	976
2010	4,521	4,130	1,367
2011	4,786	3,970	2,183
2012	5,099	5,111	2,171
2013	4,905	5,108	1,968
2014	4,484	4,784	1,668
2015	4,176	4,656	1,188



c. Appeal against ruling

In addition to the judgment, which is the judicial decision on the claims made by plaintiffs, the court of first instance makes judicial decisions on a variety of incidental matters concerning proceedings in the form of directions and orders. Appeals against directions and orders may be filed only for certain important cases as stipulated under the Code of Civil Procedure. An appeal against a direction or order is called an "appeal against ruling". The provisions concerning appeals to the court of second instance shall apply mutatis mutandis to the proceedings for an appeal against a ruling. A further appeal against the decision on the appeal against a ruling, which is called a "re-appeal from appeal against ruling," may be filed only if the decision violates the constitution, or the decision violates laws or regulations and the violation apparently affects the decision.

A special appeal to the Supreme Court against the following orders and directions, which is called a "special appeal against a ruling," is permitted if the respective judicial decision violates the Constitution.

(i) An order and a direction made in a district court or summary court against which no appeal may be filed

(ii) An order and a direction made in a high court

An appeal against ruling or order rendered by a high court may be carried to the Supreme Court with the permission of the high court (appeal with permission) if the said ruling or order is found to involve

material particulars concerning the construction of laws and regulations, including cases where a high court has made a judgement that conflicts with a Supreme Court precedent. Basically, the proceedings of special and permission appeal instances shall be subject to the *mutatis mutandis* application of the provisions concerning the proceedings of final appellate instances.

4. Special provisions concerning court proceedings in summary court

The following are explanations of the proceedings in summary courts.

Comparison of Proceedings at Summary Courts

Proceedings		Applicable to:	Presided over by:	Characteristics
Civil suit	Ordinary suit	Cases where the value of the subject matter of litigation is ¥1.4 million or less	Judge	•Oral argument held in courtroom open to the public •Disputes resolved through judgment
	Action on small claim	Cases where the value of the subject matter of the action is ¥600,000 or less		In principle, proceedings are concluded within a day
Civil conciliation		All civil cases (regardless of amount sued for)	Conciliation committee	Aim to resolve disputes through discussions
Demand for payment		Mainly cases claiming monetary payment	Court clerk	Proceedings purely based on documents

a. Ordinary action

Civil suits in summary courts may be filed for cases where the value of the subject matter of litigation (amount sued) does not exceed 1,400,000 yen. Since summary courts handle cases where the amount of money being sued for is small, the proceedings are simplified and a speedy solution is desired. The following are characteristics of summary court proceedings.

(i) A complaint can be filed orally.

(ii) The plaintiff may file an action by clarifying the points in dispute, in lieu of the statement of the claim.

(iii) The party is not required to prepare documents prior to oral arguments.

(iv) Matters to be stated in the judgment document are simplified.

There is a system whereby selected members of the public participate in the proceedings as "judicial commissioners" for summary courts. They assist the judges in their attempts to arrange a settlement, and attend civil proceedings and express their opinions for the judges' reference. The judicial commissioners' abundant experience, expert knowledge, and common sense are utilized to resolve disputes in summary courts.

Courtroom of summary court

1 Judge 2 Court clerk
3 Court secretary 4 Judicial commissioner
5 Plaintiff's counsel 6 Defendant's counsel

b. Action on small claim

Action on small claim is a special proceeding in a summary court where the trial is generally completed within a day and a judgment is rendered on the same day. This proceeding can only be used for claims for payment of money up to 600,000 yen.

Any plaintiff requesting to use this proceeding must state to the court that a trial and judicial decision are sought by way of an action on small claim when filing the action. On the other hand, the defendant may request ordinary proceedings to the court if a small claim trial is not desired.

In order to resolve a dispute immediately, a small claim trial allows only documentary evidence and witnesses that can be examined on the date of the hearing. The court often conducts the proceedings by dividing allegations and evidence, while listening to the actual circumstances of the dispute from the parties, without clearly asking whether opinions expressed by the parties are allegations or statements made during the examination of the party.

Except where it finds it inappropriate, the court shall render a judgment immediately after the conclusion of oral argument. In this case, the court does not need to prepare a judgment document.

A party cannot file an appeal against a judgment of an action on small claim to the court of second instance, but instead may file an objection to the court that rendered the judgment. If a party files an objection, the summary court handles the case as an ordinary civil suit, conducts ordinary proceedings, and renders a new judgment. Generally, no appeal may be filed against this judgment.

c. Demand for payment

Under this proceeding, a court clerk of a summary court orders payment of money or any other alternative, or delivery of securities upon the petition of one of the parties (creditor). Demand for payment is issued based only on examination of documents.

The party who receives the demand for payment (debtor) may make an objection (objection to demand). If the debtor makes an objection, the petition of the demand for payment is deemed as filing an action, and ordinary proceedings for civil suits commence in the district or summary court depending on the

value of the claim.

If the debtor does not make any objection within two weeks from the day on which he/she received a service of the demand for payment, a court clerk, upon the petition of the creditor, shall declare that provisional execution of the demand for payment, which may be revoked later, is possible. The debtor may make an objection to the demand for payment within two weeks from the day on which the debtor has received a service of the demand for payment with a declaration of provisional execution. If the above period passes without any objection being made, the demand for payment has the same effect as a final and binding judgment, and the debtor is no longer able to dispute the details of the demand for payment, and the creditor is permitted to carry out compulsory execution, which is not revoked, based on the demand for payment.

The Tokyo Summary Court accepts petitions for demand for payment from all over Japan via the Internet, and the creditor can carry out related processes including paying the expense and check on the progress of the case without visiting the court.

C. Court costs, burden and grace of payment

The filing of action and other kinds of petitions require the payment of fees. Other expenses, such as postal charges, and travel expense and daily allowances to be paid to witnesses are also involved for court proceedings. The party who requests delivery of documents and examination of witnesses must provisionally pay these expenses to the court in advance. These fees and expenses are called "court costs". The court costs do not include all of the costs involved in a suit. For example, where a party retains an attorney, the attorney's fees are not included in the court costs. The court decides which party shall bear the court costs in its judgment. The defeated party is generally ordered to bear the court costs, and the winning party is entitled to reimbursement of the court costs he/she has already paid from the defeated party. In this case, the winning party must submit a petition to the court clerk to calculate the amount of money to be reimbursed from the defeated party in advance. This procedure is called a "disposition to fix the amount of court costs".

A person may request the court to grant a grace period for expenses and costs to be paid to the court (judicial aid) when he/she lacks the financial resources to pay the expenses necessary to prepare for and conduct a suit or suffers substantial detriment in his/her standard of living by paying such expenses. However, a grace of payment is not granted to parties unlikely to win the case. The expenses and costs for which a grace period for payment is given are collected directly from the opponent, if the party to whom grace of payment was granted wins the case.

There are also other systems to support payment of costs involved in court cases. For example, the Japan Legal Support Center lends money to people who need attorneys to resolve issues in legal proceedings, but do not have the financial ability to pay the attorneys' fees and the court costs themselves after investigating all the circumstances, including the likelihood of winning the case.

Ⅲ. OTHER PROCEEDINGS

There are many types of civil proceedings in Japan other than civil suits. They are outlined as follows.

A. Civil execution

Civil execution is a procedure whereby an obligee may request a national agency to exercise state power to satisfy his/her claim when the obligor does not voluntarily perform his/her obligation.

There are several types of civil execution, and, among them, compulsory execution and auction for the exercise of a security interest are the most frequently petitioned for.

1. Compulsory execution can be separated into two types; namely, compulsory execution of a pecuniary claim and compulsory execution of a non-pecuniary claim.

Compulsory execution of a pecuniary claim is a proceeding to forcibly collect a claim by seizing and selling, among other things, real property, movables, and claims, owned by the obligor, and paying the proceeds of the sale to the obligee. Compulsory execution against real property and that against claims are handled by the court, while compulsory execution against movables is handled by court execution officers.

However, regarding compulsory execution against real property, the current condition of the real property in question is investigated before its sale, and the investigation is handled by court execution officers.

Compulsory execution of the delivery of real property is an example of compulsory execution of a non-pecuniary claim. Delivery of real property can be executed in two different ways; direct and indirect compulsory execution. In the case of direct compulsory execution, a court execution officer physically evicts an obligor from the real property concerned. Indirect compulsory execution is a proceeding whereby a court urges an obligor to perform his/her obligation by putting psychological pressure on him/her through the threat of monetary sanctions.

2. Auction for exercise of a security interest is a proceeding to auction the assets of an obligor, such as real property, that have been kept by the obligee as security in case the obligor does not perform his/her obligation. The procedure of an auction for exercise of a security interest is the same as for compulsory execution of a pecuniary claim.

Table 6. Changes in the number of civil execution cases against real property

Year	Newly received	Ended	Pending
1989	48,334	78,982	80,913
1990	41,179	63,083	59,009
1991	44,055	43,390	59,674
1992	54,105	40,466	73,313
1993	62,891	42,987	93,217
1994	63,905	49,029	108,093
1995	63,966	52,825	119,234
1996	66,649	61,169	124,714
1997	66,301	69,758	121,257
1998	78,538	71,256	128,539
1999	75,242	87,063	116,718
2000	76,852	95,102	98,468
2001	74,784	87,481	85,771
2002	77,674	83,384	80,061
2003	74,857	84,271	70,647
2004	71,619	78,759	63,507
2005	65,477	75,184	53,800
2006	61,433	69,061	46,172
2007	54,920	57,684	43,408
2008	67,201	54,585	56,024
2009	67,577	69,005	54,596
2010	51,278	65,210	40,664
2011	43,596	50,577	33,683
2012	38,962	44,196	28,449
2013	33,718	37,760	24,407
2014	28,085	31,807	20,685
2015	25,470	27,415	18,740

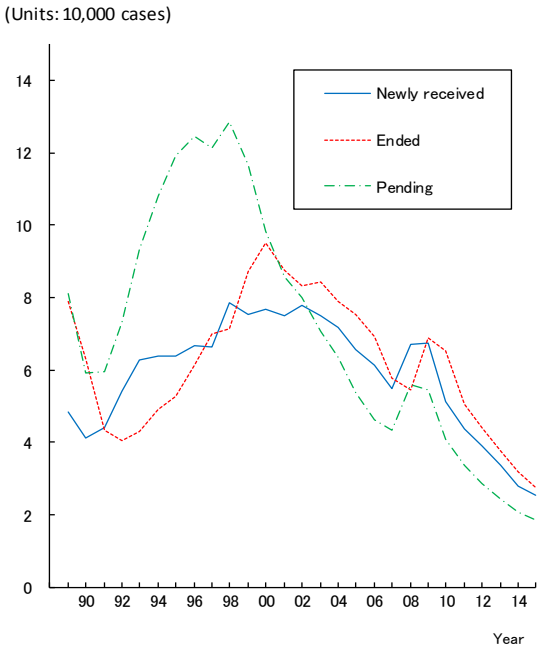


Table 7. Changes in the number of civil execution cases against movables

Year	Newly received	Ended	Pending
1989	253,963	277,297	59,022
1990	208,729	221,410	46,341
1991	198,915	199,215	46,041
1992	212,358	205,785	52,614
1993	222,949	224,860	50,702
1994	225,396	224,870	51,228
1995	221,854	224,642	48,440
1996	202,451	216,995	33,896
1997	172,150	178,642	27,404
1998	161,993	167,308	22,089
1999	149,853	153,942	18,000
2000	142,026	145,473	14,553
2001	137,984	137,969	14,568
2002	135,952	136,291	14,229
2003	136,101	138,309	12,021
2004	129,223	130,342	10,902
2005	115,438	117,446	8,894
2006	109,694	110,641	7,947
2007	90,900	92,926	5,921
2008	73,519	73,904	5,536
2009	68,589	68,366	5,759
2010	72,728	73,370	5,117
2011	44,470	46,977	2,610
2012	35,202	35,492	2,320
2013	25,301	25,906	1,715
2014	23,675	23,620	1,770
2015	25,196	25,120	1,846

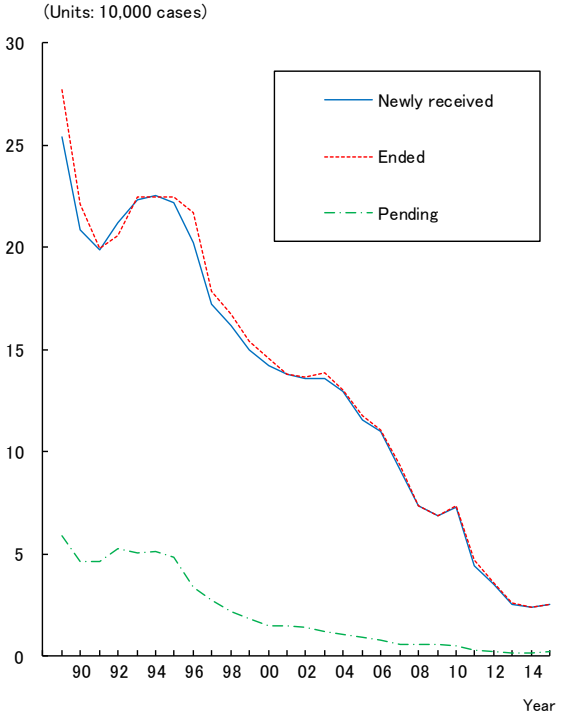
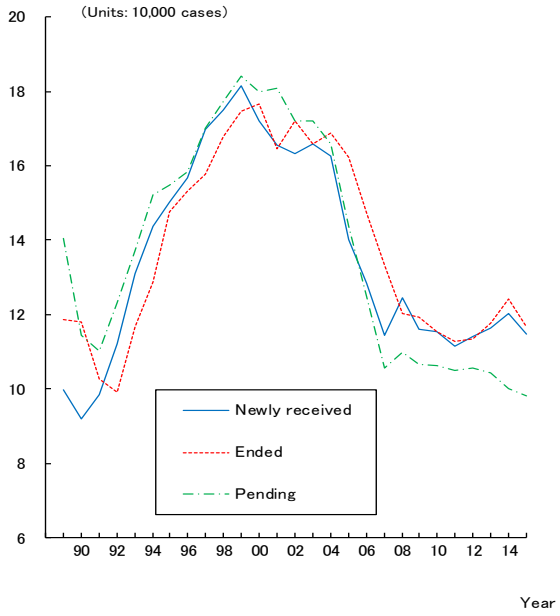


Table 8. Changes in the number of civil execution cases against claims

Year	Newly received	Ended	Pending
1989	99,620	118,697	140,276
1990	91,915	117,911	114,280
1991	98,552	102,770	110,062
1992	112,151	99,122	123,091
1993	130,853	116,640	137,304
1994	143,604	128,789	152,119
1995	150,188	147,700	154,607
1996	156,780	153,174	158,213
1997	169,628	157,664	170,177
1998	174,997	167,886	177,288
1999	181,535	174,640	184,183
2000	172,177	176,517	179,843
2001	165,575	164,665	180,753
2002	163,177	172,026	171,904
2003	165,934	165,896	171,942
2004	162,532	168,639	165,835
2005	139,969	162,178	143,626
2006	128,235	147,188	124,673
2007	114,384	133,380	105,677
2008	124,411	120,369	109,719
2009	116,146	119,340	106,525
2010	115,290	115,444	106,371
2011	111,500	112,895	104,976
2012	113,983	113,537	105,422
2013	116,439	117,734	104,127
2014	120,168	124,134	100,161
2015	114,612	116,682	98,091



B. Civil provisional remedies

Civil provisional remedies are proceedings to temporarily prohibit the disposal of assets, and determine the tentative position of the parties with regard to the rights under dispute in a civil suit in order to preserve the fulfillment of a right.

Without such proceedings, the defendant may dispose of assets while the civil suit is in progress, in which case, even if the plaintiff wins the case, he/she would not be able to enforce his/her judgment. For example, the plaintiff cannot enforce a monetary judgment if the defendant disposes of all his/her assets before the court renders the judgment. Similarly, a plaintiff cannot implement compulsory execution for delivery of real property if the defendant disposes of the real property concerned before the court renders the judgment for delivery of the real property. In another case, the obligee may suffer significant detriment while a civil suit is pending. For example, the victim of a traffic accident may have difficulty going about his/her daily life while the suit seeking compensation is pending if they do not receive compensation for damages quickly.

In order to avoid such consequences, the court may provisionally seize the obligor's assets to enable potential compulsory execution against the assets in the future, provisionally prohibit the obligor from transferring possession of an object to a third party to enable court enforcement of delivery of the object in the future, and decide to order the obligor to make a provisional monetary payment to the obligee based on a petition by the obligee.

C. Bankruptcy

Bankruptcy proceedings are designed to liquidate the debtor's assets when a debtor is no longer able to pay his/her debts with all his/her assets, and distribute their proceeds fairly among creditors. Bankruptcy proceedings can

apply to any individual or juridical person.

When a creditor or debtor files a petition, a district court reviews whether the requirements stipulated by law are met or not; for example, whether the debtor is generally continuously unable to pay his/her debts, or is insolvent or not. If these requirements are met, bankruptcy proceedings are commenced. Once bankruptcy proceedings are commenced, the debtor loses the power to control and dispose of his/her assets, and such power is transferred to a bankruptcy trustee appointed by the court. The bankruptcy trustee administrates and liquidates the debtor's assets under the court's supervision. Parties claiming that the debtor owes a debt to them must notify the court of the amount of their claim, and the bankruptcy trustee then investigates the legitimacy of their claim. After liquidating all the debtor's assets, the bankruptcy trustee distributes the liquidation proceeds (liquidation distribution) among the creditors, and the court terminates the bankruptcy proceeding after the distribution is complete. However, if the debtor's assets are insufficient to make a liquidation distribution to its creditors, the bankruptcy shall be closed without a liquidation distribution.

Discharge proceedings are held to support a debtor to recover financially by discharging his/her debts. A debtor is not automatically discharged from their debts once the bankruptcy proceedings are terminated, but he/she needs to obtain a grant of discharge from the court. The court reviews whether or not certain grounds stipulated by law apply to denying the debtor a discharge after hearing the opinions of creditors and the bankruptcy trustee when the debtor files a petition for grant of discharge. In the absence of any reasons to deny a discharge, the court shall make an order to grant a discharge. The court may deny the petition for grant a discharge if there are such grounds, but may, at its discretion, make an order of grant of discharge when it finds it appropriate to do so, taking into consideration all the circumstances, including the reasons the debtor became insolvent. Once an order of grant of discharge becomes final and binding, the debtor is discharged from the debts that existed when the bankruptcy proceeding commenced except for a liquidating distribution through bankruptcy proceedings.

D. Civil rehabilitation and corporate reorganization

1. Civil rehabilitation proceedings aim to restore the debtor's business or financial situation by reducing the amount of their debts or amending the repayment schedule for them. Any individual or judicial person may use civil rehabilitation proceedings.

After a petition is filed by a creditor or the debtor, a district court reviews whether requirements stipulated by law are met or not; for example, whether the debtor is at risk of bankruptcy or the debtor's business has difficulty in continuing if it pays off its debts; and if these requirements are met, rehabilitation proceedings are commenced. The court appoints a supervisor as necessary. The supervisor supervises the business operations and asset administration of the debtor. The court may appoint a trustee who carries out the debtor's business on behalf of the debtor, and administers and disposes of the debtor's assets.

Until a trustee is appointed, the debtor retains the power to carry out its business and to administer and dispose of its assets. The debtor

shall prepare a proposal for a rehabilitation plan within a specified period, and submit it to the court. The plan shall give details of how to reduce the amount of their debts and modify the payment schedule for debts. Once the proposed rehabilitation plan is approved at a creditors meeting and confirmed by the court, the creditor's rights are modified in accordance with the plan, and the debtor is discharged from their debts except for those specified to be paid under the rehabilitation plan. When a supervisor is appointed, the supervisor oversees execution of the rehabilitation plan by the debtor for three years.

2. Corporate reorganization proceedings are intended to maintain and reorganize the business of stock companies by reducing the amount of their debts and amending their repayment schedules. Only stock companies can use corporate reorganization proceedings.

When a petition is filed by a stock company, creditor, or stockholder, a district court reviews whether the requirements stipulated by law are met or not; for example, whether or not the stock company concerned is at risk of bankruptcy, or whether the stock company concerned has difficulty in remaining in business or not after paying off its debts. The court makes an order for commencement of reorganization proceedings if these requirements are met.

Once reorganization proceedings commence, the stock company loses the power to carry out its business and to administer and dispose of its assets, and this power is transferred to a trustee appointed by the court. The trustee prepares a proposal for a reorganization plan within a

Comparison of Insolvency Proceedings

Proceedings	Type	Applicable target	Causes	Body with authority to control assets
Bankruptcy	Liquidation	All individuals and judicial persons	(1) Inability to pay debts (2) Insolvency	Bankruptcy trustee
Civil rehabilitation	Reorganization	All individuals and judicial persons	(1) Risk of bankruptcy (2) Difficulty making payments	Debtor or trustee
Corporate reorganization	Reorganization	Stock companies	(1) Risk of bankruptcy (2) Difficulty making payments	Trustee

specified period under the supervision of the court. The proposed reorganization plan shall contain details on how to reduce their debts, modify the repayment schedule for debts, and modify stockholders' rights. Once the proposed reorganization plan is approved at a stakeholders meeting, including creditors, stockholders and new investors in the reorganization plan, and has been confirmed by the court, the rights of the creditors, security interest holders, and stockholders are modified in accordance with the provisions of the reorganization plan, and the stock company is discharged from all its debts except for those specified to be paid under the reorganization plan.

E. Civil conciliation

Civil conciliation is a means of judicial Alternative Dispute Resolution (ADR) that functions alongside suits in Japan. Civil conciliation is applied to general disputes in civil affairs. Civil conciliation can also be attempted prior to filing of action. Civil conciliation can be handled in a district or high court, but most cases are handled by summary courts.

Civil conciliation is handled by a conciliation committee comprising a judge as the legal expert and two or more conciliation commissioners selected from the general public, with the judge presiding over proceedings. In some cases, the proceedings are presided over by a civil conciliator, who is selected from attorneys with not less than five years experience instead of a judge. Conciliation commissioners are selected from individuals with extensive experience who are well versed in the norms of society.

Civil conciliation

1 Chief conciliator (Judge) 2 Court clerk
3 Conciliation commissioner 4 Petitioner
5 Petitioner's counsel 6 Respondent
7 Respondent's counsel

The conciliation committee encourages the parties to discuss the issues, and supports the parties in finding an agreement by proposing possible solutions that the committee has prepared. Once the parties reach an agreement, and the details are entered in a record, the conciliation is concluded, and the proceedings are closed. In this case, the agreement described in the records is binding on both parties, and the parties can execute the agreement accordingly.

In Japan, the law requires the conciliation committee to perform evaluative conciliation based on legal judgment. For example, the conciliation committee can determine the facts by its own means of investigation, and so on, to offer a rational solution. If the parties reach an agreement that the conciliation committee deems is not appropriate, the committee may decline to conclude the conciliation.

If the parties fail to reach an agreement, the conciliation committee may find it necessary to make an order for resolution of the case (Order in lieu of conciliation). The conciliation committee also has the power to order a monetary payment or delivery of objects to either party based on its order in lieu of conciliation. Either party can raise an objection to an order in lieu of conciliation only within a certain period. In the absence of any objection within such period, the order in lieu of conciliation becomes binding on all parties.

There are also special conciliations as a special case of civil conciliation. This is used with the aim of helping parties to rebuild a life or business when they have difficulties in meeting their loan payments by discussing the repayment method with creditors. Both individuals and companies can use this proceeding.

Table 9. Changes in the number of civil conciliation cases (all cases)

Year	Newly received	Ended	Pending
1989	56,115	55,852	19,944
1990	61,007	59,683	21,268
1991	74,349	70,693	24,924
1992	99,973	93,828	31,069
1993	112,846	113,170	30,745
1994	117,996	118,961	29,780
1995	130,808	129,150	31,438
1996	165,107	159,357	37,188
1997	194,761	189,683	42,266
1998	248,833	243,101	47,998
1999	263,507	264,830	46,675
2000	317,986	298,556	66,105
2001	367,404	362,922	70,587
2002	489,955	467,687	92,855
2003	615,313	606,802	101,366
2004	440,724	485,953	56,137
2005	322,987	330,676	48,448
2006	304,049	303,579	48,918
2007	255,565	271,409	33,074
2008	150,161	160,659	22,576
2009	108,615	112,861	18,330
2010	87,808	90,888	15,250
2011	74,896	78,211	11,935
2012	55,862	57,421	10,376
2013	47,596	47,436	10,536
2014	43,862	44,393	10,005
2015	40,760	40,262	10,503

(Note) Total number of high court, district court, and summary court cases.

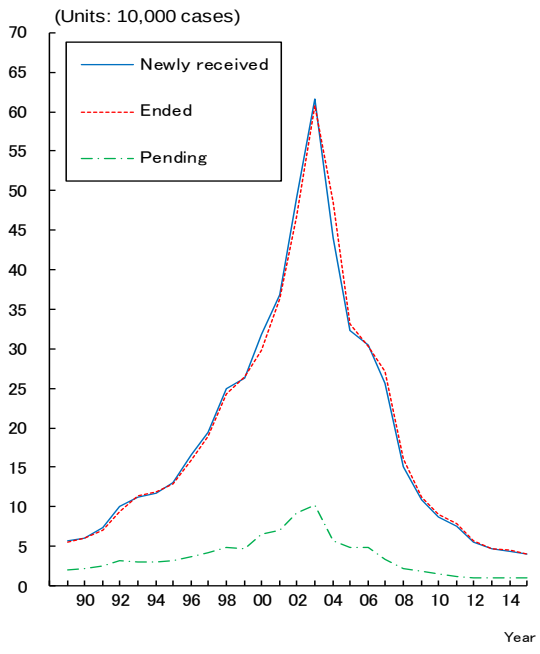
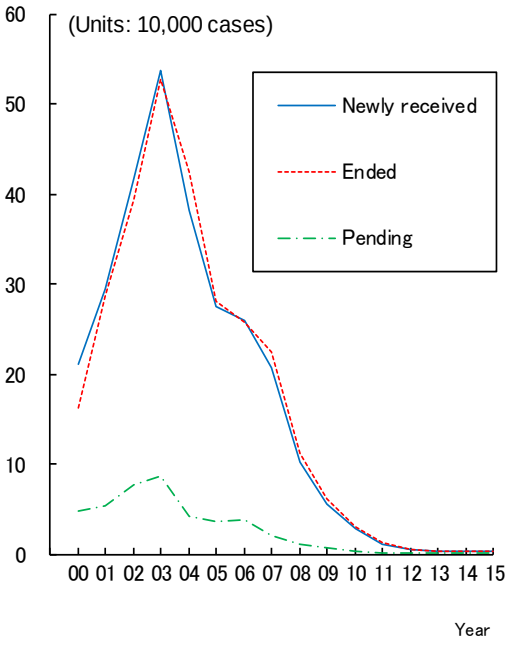


Table 10. Changes in the number of special conciliation cases

Year	Newly received	Ended	Pending
2000	210,866	163,002	47,864
2001	294,485	288,012	54,337
2002	416,668	394,157	76,848
2003	537,071	527,762	86,157
2004	381,503	424,556	43,104
2005	274,794	281,814	36,084
2006	259,297	257,920	37,461
2007	208,360	224,052	21,769
2008	102,688	112,895	11,562
2009	56,004	61,079	6,487
2010	28,229	31,136	3,580
2011	11,382	13,496	1,466
2012	5,514	6,241	739
2013	3,849	3,866	722
2014	3,371	3,415	678
2015	3,078	3,025	731



F. Protection order

Protection order proceedings are designed to prevent violence inflicted by a spouse or a person who is in a de facto state of marriage and to protect the victims as stipulated in the "Act on the Prevention of Spousal Violence and the Protection of Victims, etc."

In cases where a victim suffers violence tantamount to criminal assault or injury as stipulated in the Penal Code from their spouse or de facto partner, or is subject to threats on their life or body, and there is a high risk that such harm could be inflicted, the victim may file a petition to a district court for a protection order. In order to file a petition for a protection order, the victim in principle needs to have consulted with the Spousal Violence Counseling and Support Centers established by the local government or police first. If those institutions have not been consulted, a document must be prepared and attached to the written petition order. In this document, the facts of the situation regarding the violence must be described. Also, the victim must affix their signature and seal to the document concerned after swearing on oath that the details as described are true and certified by a notary. The court generally issues a protection order when it decides that there are valid grounds for the petition after providing an opportunity to the opposite party to state their case in court.

The court may prohibit the opposite party from coming within a stipulated distance of the petitioner, or may order the opposite party to leave the domicile that the petitioner shares as the main house as part of the protection order.

G. Labor tribunal proceedings

The purpose of labor tribunal proceedings is to quickly, appropriately, and effectively resolve a dispute concerning civil affairs arising between an individual employee and their

employer about whether or not a labor contract exists or any other matters concerning labor relations. With labor-related disputes increasing along with changes in socioeconomic conditions, the Labor Tribunal Act was enacted as part of judicial reform, and took effect on April 1, 2006.

Proceedings are handled by a labor tribunal comprising a judge and two labor tribunal members. The labor tribunal members are appointed from individuals with expert knowledge and experience in labor relations.

Labor tribunal

1 Judge 2 Court clerk

3 Labor tribunal commissioner 4 Petitioner

5 Petitioner's counsel 6 Respondent

7 Respondent's counsel

The labor tribunal shall hear an individual labor dispute, in principle, before or on the third proceeding date. If the case is likely to be resolved through conciliation, the tribunal shall attempt conciliation, but if the case fails to be resolved, it shall render a labor tribunal decision, based on the rights and interests between the parties that were found as a result of the proceedings, and in light of developments in the labor tribunal proceedings.

A party may file a challenge against a labor tribunal decision within two weeks from the day on which he/she is served with the written tribunal decision or the labor tribunal decision is rendered. If an objection is filed, the labor tribunal decision shall cease to be effective, and it shall be deemed that a complaint has been filed to the court at the time that the petition for labor tribunal proceedings was filed. Labor tribunal decisions that have become final and binding in the absence of any objections and the details of the agreed settlement have the same effect as judicial settlements.

Supreme Court of Japan