

International Jurisdiction on Maintenance and Child Support (summary)

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The new legislation on the international jurisdiction of Japanese courts introduced by the 2018 amendments to the Personal Status Litigation Act and the Domestic Relations Case Procedure Act (herein after the “New Law”) covers a wide range of cases relating to personal status litigations and adjudications of family relations, such as divorce, inheritance, maintenance, child custody, guardianship and so on.

The purpose of this article is to evaluate the New Law prescribing the international jurisdiction on maintenance claims, especially focusing on the child support and to analyze some unresolved issues. To that end, this article first explores the underlying principles and the discussions made during the legislation process. After considering general jurisdiction of the New Law, this article will analyze the possible impact and interpretation of the New Law and try to show some guideline based on the previous court decisions to implement the New Law for unresolved issues such as child support jurisdiction ancillary to divorce litigation, foreign courts’ indirect jurisdiction as a condition for recognition of foreign judgment, *lis pendens* and jurisdictional requirements of child support modifications.

Under the New Law, several grounds of jurisdiction are available for maintenance applications, the court of the place where either the respondent or applicant (creditor only) including the place where child resides. Besides the defendant-residence principle, it is notable that creditor’s residence may also be a ground of international jurisdiction for maintenance as well. When it comes to child support, child residence will also be a ground. The main reason behind this is to protect the creditor who is in need for financial support and the interest of the child.

Since the New Law does not say anything about jurisdictional requirements for modifying maintenance order, this issue is left for interpretation by the courts. When it may be too cruel for the obligor to modify the former order in foreign state in which the creditor resides, it should be considered to allow a kind of emergency jurisdiction based on the New Law on international jurisdiction for divorce litigation, Article 3-2, section 7.

The author hopes that proper exercise of international jurisdiction for family disputes as well as prompt and effective arrangements for collecting international maintenance will be improved with the New Law as a turning point.