

## **To Those Who Are Interested in Applying for Mediation regarding the Hague Convention Case**

The Tokyo Bar Association operates the Dispute Resolution Center (“Center”) as the institution for alternative dispute resolution aiming at speedy, fair and reasonable settlement of civil disputes through simple procedures.

Under the commission from the Ministry of Foreign Affairs of Japan (the Central Authority of Japan under the Hague Convention. “Ministry”), the Center provides mediation in order to resolve disputes concerning removal or retention of a child by reaching an agreement between the parties on the return of or access/visitation to the child.

The parties can attend mediation sessions by using the Web conference system, and discuss matters to seek an amicable solution through up to four sessions without a fee (*Please see 7 below.*).

Please note that this is a specialized mediation process, which is different from the ordinary mediation provided by the Center.

### **1 Those eligible for mediation**

Our mediation is available in a case where the applicant obtained a decision for assistance from the Ministry prior to applying for the mediation.

An application may be filed by the parent or person with the rights of custody claiming his/her child has been wrongfully removed or retained from former country of residence.

### **2 Period for filing application**

The application for the fiscal year of 2025 shall be filed from April 1, 2025 to March 31, 2026.

The commission by the Ministry to the Tokyo Bar Association may be renewed every year.

### **3 Number of mediation sessions**

The parties may use the mediation only once.

Up to four sessions will be held for each case; however, additional sessions may be held on certain circumstances (*please see 6(6) and 7(1) below.*).

### **4 Language**

Mediation will be conducted in Japanese or English.

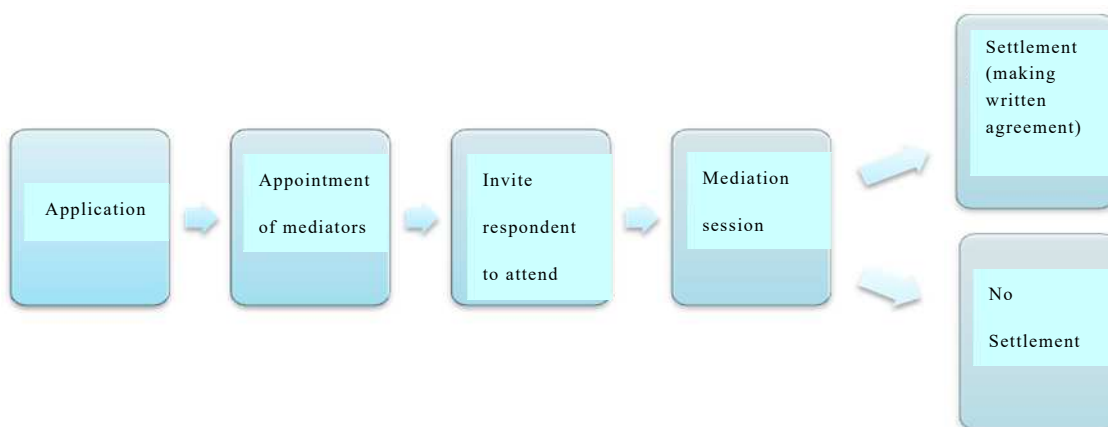
The service of translation or interpretation will be provided if necessary (*please see 7(3) and (4) below.*). However, it may not always be possible to secure an interpreter, for example, in the case of uncommon and rare language.

### **5 Goal of mediation**

The goal of mediation is to resolve disputes between the parties concerning removal or retention of children by reaching an agreement through discussion between the parties with assistance of mediators.

Child support payment, divorce or other family-related cases can be discussed during mediation sessions if both parties agree to do so (*please see 7(2) below.*).

## 6 Mediation procedures



### (1) Filing application

Please apply for mediation to the Center by the method specified on our website. (Fill out the form on the website.)

Until the final agreement is reached, the mediation procedures can be conducted without disclosing any of your contact information to the respondent and you do not need to disclose your address to us if you provide us with your telephone number and email address.

If you would not like to disclose to the respondent any of your contact information provided in the application form, please indicate so in the form.

If the application form or supporting documents are written in English, please provide the Japanese translation. When the translation is not attached, the mediators will decide which documents should be translated into English. The Center will translate them into Japanese (*please see 7(3) below.*).

### (2) Appointment of mediators

The Center appoints two mediators from the candidates list; one is a lawyer, and the other is an expert in sociology or psychology such as a clinical psychologist.

The parties can select mediators from the list if both parties agree.

If necessary, the Center appoints one assistant mediator, who is a lawyer, to help the mediators conduct the mediation process smoothly.

### (3) Inviting and encouraging the respondent to participate

Immediately after the application, the Center will invite and encourage the respondent to participate in the mediation. The contact information such as address and phone number will not be disclosed to the respondent. The Center will ask the respondent to submit a reply to the application and his/her supporting documents, and send copies of those documents to the applicant. If the respondent refuses to participate, the mediation procedures will end at that point.

### (4) Notice of the first mediation session

Immediately after obtaining the respondent's consent to participate in the mediation, the Center will coordinate the date and time of the first session in consultation with the mediators and the parties, and

give notice to the parties.

#### (5) Mediation sessions

- a. The parties can attend mediation sessions by using the Web conference system. There may be separate sessions for each party if necessary and appropriate.
- b. As a general rule, mediation sessions will be held at the office of the Center during our business hours; 10 am to 5 pm on business days. Each session lasts approximately 2 hours.
- c. The mediators begins the mediation process by listening equally and carefully to both parties.
- d. The mediators may contact each party by telephone or other means outside the mediation sessions for the purpose of obtaining information necessary to facilitate resolution of the case.

#### (6) Conclusion of mediation

When both parties reach a resolution, a written agreement will be prepared in Japanese (in principle) and translated into English (in other foreign languages as well if necessary and if the Center can provide translation.). The agreement will be directly handed over to the parties or will be sent by the registered and certified mail (including international mail if necessary and appropriate) etc.

In case the respondent does not attend mediation sessions, either party does not pay fees or costs (including translation and interpretation fees) to be borne by the parties, or the mediators believe that the mediation will not resolve the dispute, the mediators will terminate the mediation.

As a general rule, the mediation process shall end within four sessions; however, with the prior approval from the Ministry, additional sessions as Prior Approved Sessions defined below may be held without a fee. Additional sessions also may be held if the parties bear a mediation session fee (*please see 7(1) below*).

#### (7) Arbitration

When reaching an agreement, the parties can use the arbitration process of the Center if both consent. The arbitration decision will be rendered by the mediators considering what the parties has agreed. Please ask the mediators for the details.

### **7 Fees and Costs to be borne by the parties**

Up to four sessions, fee for the mediation payable to our ADR center does not incur as it is born by the Ministry, though, if you retain a lawyer, the legal fees and costs shall be paid by yourself. With prior approval, the Ministry may bear the fee for fifth and further sessions (“Prior Approved Sessions”); however, as the budget of the Ministry is limited, any fee and cost exceeding the ceiling must be borne by the parties concerned.

Please note that the following fees and costs shall be borne by the parties.

#### (1) Mediation session fee

If the parties wish to have mediation sessions more than four times, ¥30,250 (including tax) for each additional session shall be paid by each party except for the Prior Approved Sessions.

#### (2) Contingency fee

The parties do not need to pay contingency fee for the agreement on the Hague Convention case (return/access/visitation).

However, If the parties can reach a mediated agreement on the other issues than Hague Convention issues (return/access/visitation), such as child support payment, divorce or other family-related issues,

the contingency fee will be incurred on the parties, which is to be calculated in the following way. Please ask the mediators for the details.

[Economic gain]	[Contingency fee]
¥3,000,000 or less	8%
Between ¥3,000,001 and ¥15,000,000	3%
Between ¥15,000,001 and ¥30,000,000	2%
Between ¥30,000,001 and ¥50,000,000	1%
Between ¥50,000,001 and ¥100,000,000	0.7%
Between ¥100,000,001 and ¥1,000,000,000	0.5%
¥1,000,000,001 or more	0.3%

Calculation example: supposing that the economic gain is ¥20,000,000. Contingency fee will be ¥700,000 ( $¥3,000,000 \times 8\% + 12,000,000 \times 3\% + 5,000,000 \times 2\%$ ).

※Consumption tax (currently 10%) will be added to the above fee.

### (3) Translation fee

When the documents are submitted by the applicant in English (or other foreign languages) only, the mediators will decide which documents should be translated into Japanese. The Center will translate them into Japanese.

When the respondent does not submit the English (or other foreign languages) translation of his/her documents written in Japanese, the mediators will decide which documents should be translated into English (or other foreign languages as well if necessary and if the Center can provide translation). The Center will translate them into English (or other foreign languages).

However, when the number of total words (English (or other foreign languages) to Japanese)/letters (Japanese to English (or other foreign languages)) of the documents to be translated exceeds the limit, the translation fee beyond the limit shall be borne by the parties.

The Center will ask the parties to pay the translation fee when necessary. Please pay the billed amount by the due date set by the Center. If the parties fail to pay the billed amount, the mediation may be terminated.

The Center may ask the parties to prepare and submit the summary of the documents depending on the content or volume of them.

### (4) Interpretation fee

The Center will appoint an interpreter when the mediators consider it to be necessary.

However, when the total fee exceeds the limit, the interpretation fee beyond the limit shall be borne by the parties.

The Center will ask the parties to pay the interpretation fee when necessary. Please pay the billed amount by the due date set by the Center. If the parties fail to pay the billed amount, the mediation may be terminated.

### (5) Other expenses

The parties shall bear expenses to use the Web conference system (expenses for purchasing PCs, speakers, headsets, Internet connection services, etc.). The parties do not need to bear the costs incurred to the Center for communication services such as international telephone charges unless it exceeds the

limit.

The travel and accommodation expenses shall be borne by each party.

## **8 Notes**

- (1) Because the mediation is conducted by the Center, one of the Bar Associations of Japan, as a general rule, only lawyers under the Japanese law are allowed to participate in mediation sessions as attorneys for the parties.
- (2) When the Web conference system is used, it is each party's responsibility to obtain and prepare PCs, speakers, headsets, Internet connection services.
- (3) All fees and costs to be paid from the party residing overseas to the Center and to be returned from the Center to such party must be in Japanese yen and made by bank transfer. Bank transfer fee shall be borne by the parties. No other methods of money transfer (check, credit card, etc.) may be used. The costs for refund shall be borne by the parties and will be deducted from the refund.