

To Those Who Are Invited to Participate in 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 with a view to settling the wrongful removal or retention of a child by reaching an agreement between the parties on the return of or access/visitation to the child.

On receiving the application for mediation in which you are designated as the respondent, the Center provides you with the following information and invites you to participate in the mediation.

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

(1) Applicant

The applicant is a person who is currently residing outside Japan and who is a parent or person with the rights of custody claiming his/her child has been wrongfully removed to or retained in Japan.

(2) Respondent

The respondent (you in this case) is a parent who allegedly removed his/her child to or retained the child in Japan or a person currently taking care of the child.

2 Number of mediation sessions

Up to four sessions will be held for each case; however, additional sessions may be held on certain circumstances (*please see 5(3) and 6(1) below.*).

3 Language

Mediation will be conducted in Japanese or English.

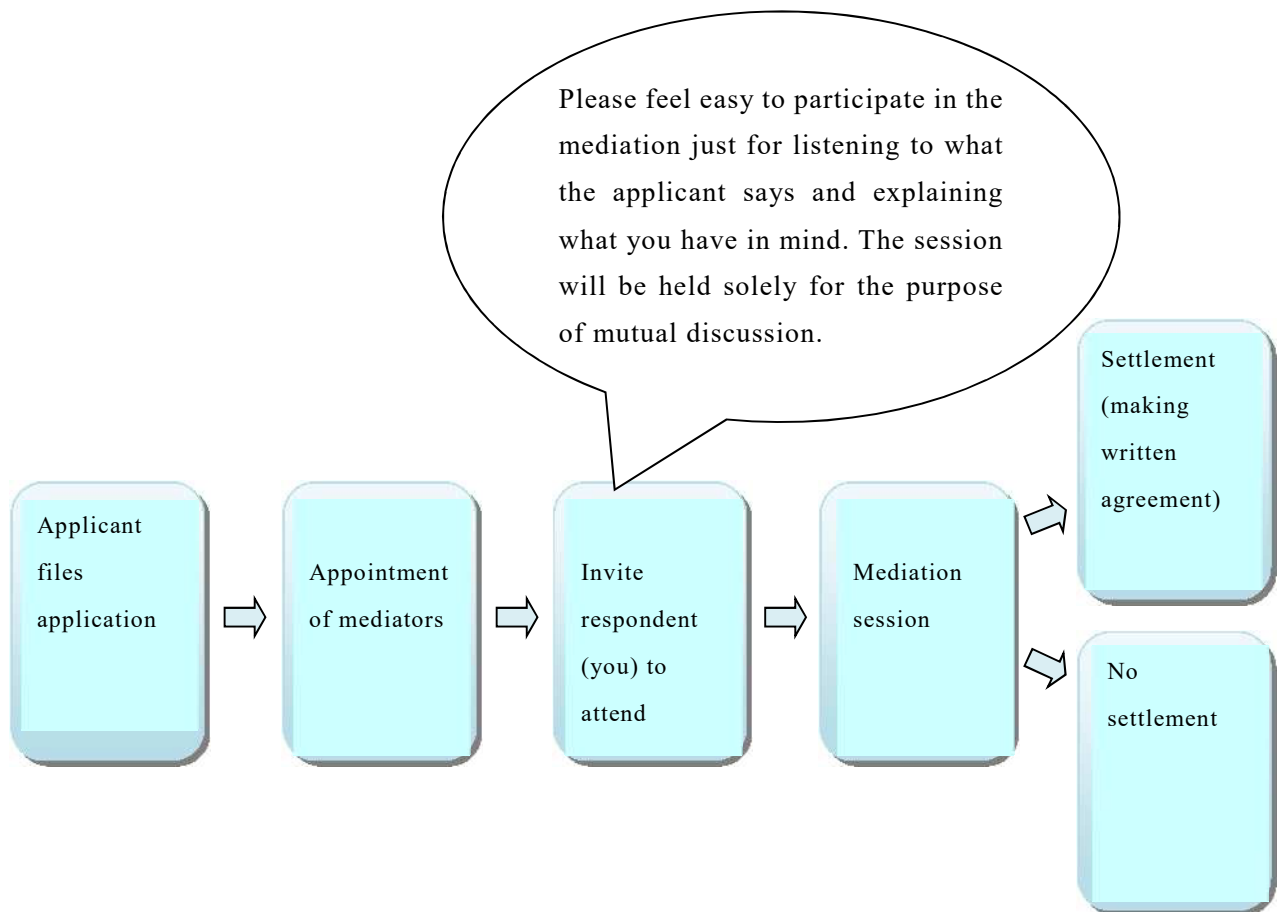
The service of translation or interpretation will be provided if necessary (*please see 6(3) and (4) below.*).

4 Goal of mediation

The goal of mediation is to reach an agreement on the return of or access/visitation to the child through the discussion between the applicant residing outside Japan and the respondent residing in Japan with the assistance of mediators.

Child support payment, divorce or other family-related issues can be discussed during mediation sessions if both parties agree to do so (*please see 6(2) below.*).

5 Mediation procedures



(1) Participating in mediation

a. The Center, as a fair and impartial institution, provides mediation process with a view to achieving an amicable solution through voluntary discussions between the parties.

If you have any questions about the procedures, please feel free to contact the Center. The Center encourages you to participate in the mediation.

b. When you submit a reply to the application and supporting documents written in Japanese, please provide the English translation if possible. When the translation is not attached, the mediators will decide which documents should be translated into English. The Center will translate them into English (*please see 6(3) below.*).

Since the mediation is based on discussions between the parties, you may choose not to submit any documents.

c. You may submit documents via e-mail if you wish.

At least until the final agreement is reached, the mediation procedures can be conducted without disclosing any of your contact information to the applicant 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 like not to disclose to the applicant any of your contact information given to us, please tell us so.

d. If you decide to participate in the mediation, the Center will notify the applicant. If you decide not to participate, the mediation procedures will end at that point.

(2) Mediation sessions

a. You will be asked to come to the Center for mediation sessions. However, depending on the circumstances, you may attend sessions by using either the Internet video conference system or telephone.

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.

Two mediators attend sessions: one is a lawyer, and the other is an expert in sociology or psychology such as a clinical psychologist.

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

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.

(3) Conclusion of mediation

When both parties reach a resolution, a written agreement will be prepared in both Japanese and 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).

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 may be held without a fee by using contingency allowance. Additional sessions also may be held if the parties bear a mediation session fee (*please see 6(1) below.*).

(4) 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.

6 Fees and Costs to be borne by the parties

Up to four mediation sessions will be held without a fee (if you retain a lawyer, the fees and costs shall be paid by yourself.). With the prior approval from the Ministry, additional sessions may be held without a fee; however, the number of additional sessions will be limited due to the ceiling of contingency allowance.

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

(1) Mediation session fee

If the parties desire to have mediation sessions more than four times, ¥11,000 (including tax) for each additional session shall be paid by each party except for the case where additional sessions are held with the prior approval from the Ministry.

(2) Contingency fee

The parties do not need to pay contingency fee for the agreement on the return of or access/visitation to a child.

If the parties can reach an agreement on other issues, such as child support payment, divorce or other family-related issues, the parties shall pay the contingency fee, 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 x 8% + 12,000,000 x 3% + 5,000,000 x 2%).

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

(3) Translation fee

When the application form and supporting documents are submitted in English 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 translation of his/her documents written in Japanese, the mediators will decide which documents should be translated into English. The Center will translate them into English.

However, when the number of total words (English to Japanese)/letters (Japanese to English) 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 deadline 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 deadline 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 Internet video conference system (expenses for purchasing PCs, speakers, headsets, Internet connection services, etc.). The parties do not need to bear the costs for communication services such as international telephone charges unless it exceeds the limit.

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

7 Notes

(1) Neither the Center nor the mediators will disclose the information regarding you or your child to the applicant without your consent.

(2) As a general rule, only lawyers under the Japanese law are allowed to participate in mediation

sessions as attorneys for the parties.

(3) When the Internet video conference system is used, it is each party's responsibility to obtain and prepare PCs, speakers, headsets, Internet connection services.

8 Q&A

Q1. I have been notified by the Center that the mediation application has been filed and provided the information about the procedures. I would like to resolve the dispute through discussions. However, I am concerned about whether what I want to say can be heard enough. And, I do not want to be forced into a resolution.

A. It is up to you whether you choose to attend the mediation procedures; however, it would be a good opportunity for mutual discussions and we strongly encourage you to come to our office and participate in the mediation session.

After listening carefully to you, the mediators will seek possible solutions of the problems. The mediators may make some suggestions toward a resolution, but it is completely up to both parties whether they decide to accept or not. You cannot and will not be forced into accepting anything. If you are not happy with the suggestions, you are completely free to decline and you can ask to modify them. You may also terminate the process at any time.

Please participate in the mediation without anxiety.

Q2. I would like to have opportunities to tell what I have in mind. But, I am worried I may feel uncomfortable when I meet the applicant in person or see his/her face through video conference.

A. You can have one of your relatives come and attend sessions as your representative. You can also retain a lawyer to represent you. Moreover, the mediators may hold separate sessions for you without the applicant attendance. Please contact the Center for more details.

9 Contact information

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