

vice, that is, “the provision of public service from the standpoint of citizens at affordable rates”, a situation where the means and goals of public services have replaced one another.

Under these circumstances, the Act on the Reform of Public Services has the significance of reaffirming the rights of the citizens who receive public services that have deteriorated during the process of privatization and outsourcing, and of legalizing the basic stance toward clarifying problems in institutional arrangements.

This legislation has several characteristics. First, it employs the notion of a narrowly defined “public service”, that is, a service provided not only by the administration but by various partners in societal areas. However, this legislation only applies to the public service that is provided by the administration, not that by private agencies. This clearly becomes its weakness.

Secondly, it delineates the labor conditions for those employed in the area of public service provision. This comes out of an interaction effect between the transfer of political power and the influence of labor unions, including the united unions and the official and public service employees’ unions.

Finally, as a basic legislation, this act only provides an ideological direction for the delivery system of public services, limited to stipulating abstract responsibility and sincerity. Therefore, the normative sanction of this legislation depends on the institutional design and implementation of public service provision.

3. Family Law

Act Revising the Part of the Law of Nationality

Law No. 88, December 12, 2008 (Effective on January 1, 2009)

Background:

Art. 3 of the Law of Nationality (newly provided in 1984) gives Japanese nationality to a child born out of wedlock between a Japanese father and a foreign mother in cases where the child (1) becomes legiti-

mate because of his or her parents' marriage (*junsei*) and (2) notifies the Minister of Justice of the fact. Consequently, a child born out of wedlock and only affiliated after birth by a Japanese father has not been able to get Japanese nationality unless his or her parents get married subsequently.

In that situation, the Supreme Court judgment in June 4, 2008 held that the distinction made by the clause between a child affiliated by his or her Japanese father after birth and a child affiliated similarly and legitimated by his or her parents' subsequent marriage violated Art.14 of the Constitution. As a result, revision of Art.3 suddenly became necessary.

Main Provisions:

A child who was affiliated by a Japanese father before birth and who does not have a legal parent-child relationship with the Japanese father at birth can get Japanese nationality on the condition that (1) his father affiliates his child and that (2) notice is submitted to the Minister of Justice, with other requirements met apart from the marriage of his parents (Art. 3, Para. 1).

In the case of notification provided for in the provision of Art. 3, Para. 1, a person making a false notification shall be punished by not more than one year of imprisonment with work or a fine of not more than two hundred thousand yen (Art. 20).

Editorial Note:

We have two provisions concerning the acquisition of nationality but naturalization in our law. The first is Art. 2, Para. 1, which permits the natural acquisition of Japanese nationality and requires a Japanese to be a legal parent at the time of the birth. A child affiliated by a Japanese father only after birth does not have any Japanese parents at birth, so affiliation is normally done after the birth and the law does not allow the relation to be retrospective, then he cannot get Japanese nationality naturally based on Art. 2. The second is the pre-revised Art. 3, Para.1, provided newly in 1984, which allows a child born out of wedlock to a Japanese father to get nationality by notice to the Minister of Justice if his or her parents' subsequent marriage transforms him or her from an illegitimate into a legitimate child (*junsei*); his or her parents' marriage is essential for it. Therefore, before the revision, a child born out of wedlock and affiliated

by a Japanese father only after birth could not get Japanese nationality either by nature, based on Art. 2, Para.1 because of the question of the timing of the affiliation, nor by the notice to the Minister of Justice based on Art. 3, Para. 1, regardless of having a legal parent-child relationship to a Japanese father, unless his parents married each other subsequently. Some children in that situation have been insecure, being afraid of the probability of forced repatriation to the mother's home country and of a breakup of the family.

The amended clause, complying with the intent of the Supreme Court's judgment on June 4, 2008, removed the requirements: "marriage of his or her parents" and "legitimated by his or her parents' marriage". Although it seems, apparently, to be a minimum hastily-formed revision in order to eliminate the unconstitutionality, allowing the acquisition of Japanese nationality under the requirements of affiliation and notice is very epoch-making. This revision leads our country to go along with some Western countries which respect the rights of children.

Added to this, Art. 20 is newly provided in the amendment stating that a person making a false notification shall be punished by not more than one year of imprisonment with work or a fine of not more than two hundred thousand yen. In the past, we did not have any penal provisions in the Law of Nationality, but in the future, some persons without a blood parent-child relationship will probably affiliate a child and make a false notification. The new penal provisions needed to be sought, in preparation. From now on, like the collateral resolution to the amendment bill by the both Houses, in order to administer the amendment clauses correctly, the Ministry of Justice has to deal delicately, in enforcing the cooperation of each body and in issuing some instructions.

4. Law of Civil Procedure and Bankruptcy

The Act of Civil Jurisdiction against the State

Law No. 24, April 24, 2009 (effective April 1 2010)