Provisional Minutes of the 17th Meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)

On July 5, 2022, the 17th meeting of the Family Law Subcommittee of the Legislative Council was held at the Ministry of Justice (in person and online). Nearly all the members and non-voting members attended the meeting. The Chairman, Prof. OMURA Atsushi, presided over the meeting.

Continuing from the previous meeting, the Subcommittee reviewed and deliberated the draft interim proposal and the supplementary explanation, which was prepared by the Secretariat as a summary of the various opinions given by the Subcommittee members and non-voting members at the previous meetings.

At the meeting, there were opinions that the following concepts should be included in the draft proposal and should be made available for public comment: (i) the law should clearly state the factors to be considered when family court make a decision on the post-divorce custody arrangements for a child; and (ii) the law should clearly state the criteria for deciding the circumstances under which visitation is in the best interests of the child. Regarding visitation and the best interests of the child, some commented that arranging an early visit to separated parents will contribute to the best interests of the child, while others pointed out that a careful discussion is needed because in some cases a visit may not be in the best interests of the child.

Subsequently, regarding the rules for the mandatory disclosure of income and asset information when determining the amounts of child support, cost of living of the married couple, and property distribution, there were opinions that, because matters to be discussed in the case of child support and cost of living of the married couple are different from property distribution, the matters need to be classified accordingly before soliciting public comment. In addition, regarding the rules for disclosure when negotiating child support, the cost of living of the married couple and distribution of property, there were opinions that the Subcommittee needs to discuss further, taking into account the effects of such rules on the substantive laws.

In addition, regarding the current Domestic Relations Case Procedure Act, there were opinions that a system for preventing abuse of the right of filing needs to be established because if a father or a mother files for child custody repeatedly it would be a burden for the opposing party to deal with the court procedure each time. Furthermore, it was pointed out that if domestic violence against a child or a parent is suspected in a child custody case, an appropriate rule should be established that gives top priority to the safety of the

child and the parent and should be included in the interim proposal.

Regarding the adoption system, there were opinions that the Subcommittee should hold further discussions about the cases in which the permission of the family court should be required to adopt a minor. In addition, some members pointed out that if rules for both parents to have parental authority after they got divorced are to be established, such rules should be discussed in relation to the rules concerning the adoption system.

Regarding the system for distributing property, some members commented that securing a residence for a child and a parent living with the child, their possible income, and compensation factors should be stated as factors which family courts must consider when making a decision on the distribution of property. On the other hand, some members commented that the rules provided by the meeting materials should remain unchanged.

At the next meeting, the Subcommittee will continue to discuss the supplementary explanation and the interim proposal.

※These provisional minutes are the summarized results of the subcommittee meeting and are to be provided by the Secretariat of the Subcommittee in both Japanese and English on an as-needed basis. The official meeting minutes (in Japanese) will be published at a later date.