

## **Provisional Minutes of the 26th Meeting of the Family Law Subcommittee of the Legislative Council (provisional translation)**

On May 16, 2023, the 26th 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.

The Subcommittee made a deliberation on the pending issues regarding divorce and the relevant systems for the third round, considering the previous discussions and opinions received through the process of the public comments and the results of the interviews. During the meeting, the Subcommittee discussed the following issues.

First, the Subcommittee discussed the issue of exercising parental authority when both parents have joint parental authority, regardless of before or after the divorce, based on the meeting materials, which included : 1) parents should jointly exercise parental authority (based on agreement between the parents), 2) if one parent is unable to exercise parental authority, the other parent should exercise parental authority, 3) both parents may exercise parental authority over daily practice or an urgent matter, 4) if parents have different views on arrangements over which both of them should jointly exercise parental authority, they should make an adjustment according to family court procedures and 5) regarding arrangements over which both parents should jointly exercise parental authority, rules for verifying a juristic act performed by either parent on behalf of the child should be established. Many members and non-voting members agreed with such views. It was also suggested that, in order to discuss specific rules based on these views, they need to further discuss the details, including the pending issues such as whether it is necessary to make different rules for divorced and married parents.

Furthermore, based on the same meeting materials, the Subcommittee discussed whether it is necessary to award sole (residential) custody when both parents have parental authority, and how (residential) custody of the child should be exercised if custody is awarded to the parent. Although some members commented that it is essential to award sole (residential) custody to one parent, other members and non-voting members suggested that doing so without exception would be unreasonable. It was also suggested that further discussion would be needed on this issue, considering the discussion on how they should sort out the rights and obligations of a custodial parent and those of a non-custodial parent. However, due to time constraints, the Subcommittee decided to continue the discussion on this issue at the next meeting.

Some issues in the meeting materials, such as the rules to change parental authority after divorce was not discussed at the meeting due to time constraints.

The Subcommittee will review and deliberate the pending issues for the third round in the following meetings.

※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.