

Articles

ADR IN JAPAN: DOES THE NEW LAW LIBERALIZE ADR FROM HISTORICAL SHACKLES OR LEGALIZE IT?

*Aya Yamada**

ABSTRACT

Japanese society has been famous for frequent use of Alternative Dispute Resolution [hereinafter ADR] for civil disputes, rather than court proceedings. The recent tide of justice system reform in Japan includes the development and enrichment of ADR in general. In the “Recommendation of the Justice System Reform” issued in 2001, ADR is regarded as an integral factor of the justice system, aiming to provide people with various and attractive means of dispute resolution, in addition to litigation at Courts. In 2004, the Law on Promotion of the Use of Alternative Dispute Resolution was enacted (Act No. 151 of 2004). This law provides the fundamental ADR policy in general and establishes a certification scheme for conciliation/mediation services delivered by private ADR organizations. Two years have passed since its coming into force in 2007, it is the author’s intention to analyze this law’s impact on private ADR organizations, as well as other ADR practitioners including Courts and administrative agencies. We are able to observe the tension between the gravities of legalization or standardization of ADR on one hand and of liberalization or de-

* Professor of law, Kyoto University, Graduate School of Law. LL.B., Tohoku University, 1990. The author can be reached at yamada@law.kyoto-u.ac.jp.

legalization of ADR on the other by following the steps of this article.

KEYWORDS: *Alternative Dispute Resolution, ADR, conciliation, mediation, arbitration, unauthorized practice of law, rule of law, justice system reform.*