VORTRÄGE / LECTURES

Reform of the Japanese Civil Code – The Interim Draft Proposal of 2013

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I. Introduction

In Japan, the largest deliberations in the last 115 years on the reform of the law of obligations of the Civil Code have taken place during the last four years, and I have personally taken part in these deliberations as a member of the Special Committee in the Legis-

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lative Council.[1] The Council published an Interim Draft Proposal on the Reform of Civil Code (law of obligations) in March of this year.[2]

In this presentation, I would like to start with a brief introduction of the enactment of the existing Japanese Civil Code and its later developments (II). Then I will give an outline of the background and purpose under which the deliberations of the reform of the Civil Code started and delineate the developments it has gone through (III). Further, I would like to present the content of the Interim Draft Proposal published this year, concentrating especially on the most important items (IV). Finally, I would like to mention the future perspectives and the remaining issues (V).

II. ENACTMENT OF THE JAPANESE CIVIL CODE (1898) AND LATER DEVELOPMENTS

1. Enactment of the Japanese Civil Code

First, I would like to briefly describe the circumstances under which the existing Japanese Civil Code was enacted.

In Japan, the samurai era (the Edo period) ended in 1867. Japan had closed its borders to outsiders for a long time during the Edo period, but this period of national isolation ended in the middle of the 19th century, and trade with foreign countries commenced at that time. Under these circumstances, the necessity for a Civil Code that would be commonly used by the public became stronger,[3] and the Meiji government hurried ahead with the work for the enactment of such a code.

As a first step,[4] a scholar named Boissonade (Gustave Emile Boissonade de Fontarabie) was invited as a government advisor from France. Boissonade undertook the laborious task of primarily drafting most of a civil code, with the exception of family

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1 Precisely speaking, there are three kinds of participants (members in a broad sense) in this committee: The first are members in the narrow sense of the word, called *i'in*. The second are secretary members, called *kanji*. The third are related government officials. The author of this article belongs to the second category.

2 Besides the Interim Draft itself, the documents "Interim Draft with an Outline" and "Supplementary Explanation of the Interim Draft" were also published. All of these three documents can be downloaded at *http://www.moj.go.jp/shingi1/shingikai_saiken.html*, last retrieved on 14 November 2013.

3 The government wanted to abolish the unequal treaties, and it was thought that as a precondition for the abolition, Japan needed to have a modern legal system. Until the end of the Edo era, there was no Civil Code in Japan. Though there was a system of civil procedure even during the Edo era, the cases were decided according to a kind of common law with a broad range of discretion on the part of the judge, who at that time usually was a lord.

4 Even before this step, the Japanese government had started the attempt to draft a Civil Code. From 1870 to 1878, the transplantation of the French Civil Code into Japan was attempted, but it was not successful because it paid no attention to the difference between the societies. See H. ODA, Japanese Law (3rd ed., Oxford 2009) 114 ff.

and inheritance issues. The draft was enacted after being elaborated by a Japanese committee, and it was promulgated in 1890.[5] This is called the "Old Japanese Civil Code."

However, there was a heated debate on whether the Old Civil Code should be enacted as it was or not.[6] This debate is called the "Code controversy." As a result, the enactment of the Old Code was postponed and ultimately never took place. Instead, a committee consisting of Japanese members was newly established, and a new draft prepared by this committee was deliberated in Parliament and was enacted as the new Civil Code.

Parts 1 to 3 were enacted in 1896, parts 4 and 5 were enacted in 1898, and the complete code came into force in 1898.

2. Characteristics of the Civil Code

The existing Japanese Civil Code has largely been influenced by the French and German Civil Codes.

First, the current Civil Code includes provisions where a strong influence of the French Civil Code can be seen, since the Old Civil Code was basically based on the French Civil Code, and the current Civil Code took the form of an amendment of the Old Civil Code.[7]

On the other hand, comparative law research was widely conducted during the amendment of the Old Civil Code and the preparation of the current Civil Code by the new committee. The first draft of the German Civil Code, which had been published at that time and was therefore very new, was consulted in depth. From the aspect of its general construction as well the Japanese Civil Code adopted the so-called Pandekten System, following the example of the German Civil Code.[8]

3. Development of Hermeneutics

After the enactment of the Civil Code, its provisions were further elaborated by theory and precedents. Also in such means of interpretation, a considerably strong influence of German law could be seen until around 1980.[9]

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5 See also R. FRANK, The General Part, in: Röhl (ed.), History of Law in Japan since 1868 (Leiden 2005) 166 ff.

6 One of the most important factors of this criticism was a factional fight between the lawyers trained in France, Germany, or England. See H. ODA, *supra* note 4, 114.

7 For the influence of French law on the Japanese Civil Code, see E. HOSHINO, *Minpō ronshū* [Treatise on Civil Law], Vol. 6 (Tokyo 1980) 90–149; H. TANAKA, The Japanese Legal System (Tokyo 1976) 229–235.

8 There is a difference in the order of the books. In the Japanese Civil Code, the first book is the General Part (*Allgemeiner Teil*), the second book is on Law of Reality (*Sachenrecht*), the third book is on the Law of Obligation (*Schuldrecht*), the fourth book is on Family Law (*Familienrecht*), and the fifth book is on the Law of Inheritance (*Erbrecht*).

9 Among others, *Hideo Hatoyama* (mainly from the end of the Meiji era until the Taisho era: the 1900s to the 1920s) and then *Sakae Wagatsuma* (mainly since the 1930s) took on the important role of spreading German theory and German hermeneutics in Japanese academic

Nowadays, international treaties such as CISG – as well as PECL, DCFR, EU Directives and so on – have drawn widespread attention, and new hermeneutics for consulting them have been developing. However, a strong influence of German and French law can still be seen.

4. Later Partial Amendments and Enactments of Special Laws

After World War II, pursuant to the enactment of the New Constitution, some amendments were made to the Civil Code. First, the fourth and fifth part of the Civil Code were radically amended, and a new family system was introduced following the basic ideology of substantial gender equality.[10] Further, the first part was also subject to some amendments, e.g., a general provision relating to substantial gender equality and a provision relating to good faith were introduced.

Several small amendments were also made to the Civil Code afterward. For example, a series of provisions related to the revolving mortgage was added; the system of legal capacity was amended and a new adult guardianship system was introduced; the system of cooperation, especially of nonprofit cooperation, was changed; provisions on guarantee were amended; and so on.

However, such amendments were just partial, and the largest parts of the provisions relating to contracts have basically not changed since their enactment 115 years ago.

III. REFORM DELIBERATIONS REGARDING THE CIVIL CODE (LAW OF OBLIGATIONS): THEIR BACKGROUND/OBJECT/DEVELOPMENTS AFTER THEIR START

1. Background: Discussion on the Necessity of a Reform

Now I will briefly present the background of the reform deliberations.

During these 115 years, transactions in Japanese society and international circumstances have both changed significantly. Thus, it has been indicated that the existing rules of the Civil Code, especially those related to contracts, do not conform with the actual condition of modern transactions, and a review of such rules is needed.

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society because German theories had been regarded as commonly held opinion for a long time. However, since around the 1970s, the influence of French law on the Japanese Civil Code has been emphasized upon by some influential scholars, including Ei'ichi Hoshino. See E. HOSHINO, *supra* note 7, 90 ff.

10 Under the former Civil Code, especially in the fourth and fifth books, the *"ie-seido"* (the old Japanese family (house) system) granted the head of a family (*koshu*) ruling power over the family, the children had no equal right of inheritance, and the wife was treated as incompetent. However, the new Constitution provides equality of all people under the law (Art. 14) and substantial equality of gender (Art. 24). For an English translation of the Japanese Constitution, see *http://www.kantei.go.jp/foreign/constitution_and_government/frame_01.html*, last retrieved on 14 November 2013.

Further, interpretation theories have been developed in the meantime and legal principles have been developed by precedents, but those actually existing rules are difficult to identify by looking only at the black letter.

Moreover, the existing Civil Code, which was enacted 115 years ago, was in a way meant for professionals, and so it was structured under the principle that there is no need for established legal principles to be expressly stipulated. However, since the Civil Code is an important act closely related to everyday life, it has been maintained that a Civil Code that can easily be understood by the people should be aimed at.

From around the 100th anniversary of the enforcement of the Civil Code deliberations toward a reform of the Civil Code commenced in academic society. Especially since 2005 some academic groups began publishing draft proposals regarding the reform of the Civil Code.[11]

At the same time, well-known movements toward reviewing the rules related to contracts could be observed in recent years in many countries abroad, including Germany.

In addition to these, Japan ratified/participated in CISG (United Nations Convention on Contracts for the International Sale of Goods) in 2008 (1 July 2008), which came into effect in Japan in 2009 (1 August 2009). It seemed to be better to have domestic contract rules that are in harmony with international rules.

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11 Among others, I can point out the work of three academic groups. The first is *Minpō (Saiken-hō) Kaisei Kentō I'in-kai* [Japanese Civil Code (Law of Obligations) Reform Commission], whose chairperson was Professor *Kaoru Kamata*. It opened deliberations on a website in both Japanese and English: *http:// www.shojihomu.or.jp/saikenhou/*. As a result of the deliberations, it made up the draft reports for the reform of the Civil Code and published it: MINPŌ (SAIKEN-HŌ) KAISEI KENTŌ I'IN-KAI (ed.), *Saiken-hō kaisei no kihon hōshin* [The Basic Policy of the Reform of Law of Obligations], in: Bessatsu (special version of) NBL, 126 (2009); ID., *Shōkai saiken-hō kaisei no kihon hōshin* [Detailed Version of the Basic Policy of the Reform of Law of Obligations], Vol. 1–Vol. 5 (Shōji Hōmu 2009). Available in English from *http://www.shojihomu.or.jp/saikenhou/English/index_e.html*, last retrieved on 14 November 2013.

The second group is *Minpō Kaisei Kenkyū-kai* [Study Group Working on Japanese Civil Code Reform], led by Professor *Masanobu Katō*. It revealed its idea at the symposium at the 72nd annual meeting of the Japan Association of Private Law in 2008, and it later published its draft: MINPŌ KAISEI KENKYŪ-KAI / M. KATŌ (eds.), *Minpō kaisei kokumin, hōsō, gakkai yūshi-an* [Draft Report for the Reform of the Japanese Civil Code by Interested Persons among Japanese People, Lawyers, and Academics], in: Bessatsu (special version of) Hōritsu Jihō (2009).

The third group is *Jikō Kenkyū-kai* [Study Group Working on the Reform of the Prescription Rules in the Japanese Civil Code], led by Professor *Naoki Kanayama* and *Miyohiko Matsuhisa*. This group focused on the issue of prescription and revealed its draft at the symposium at the 72nd annual meeting of the Japan Association of Private Law in 2008 as well. It was published as N. KANAYAMA (ed.), *Shōmetsu jikō-hō no genjō to kaisei teigen* [The Present State and the Draft for the Reform of the Prescription Rules], in: Bessatsu (special version of) NBL 122 (2008).

2. Establishment of the Legislative Council and the Civil Code (Law of Obligations) Committee in November 2009

Under these circumstances, in October 2009 the Minister of Justice consulted with the Legislative Council of the Ministry of Justice for the revision of the Civil Code. In response to this consultation, the Special Committee for the Reform of the Civil Code was formally established, and the Committee continued the concrete deliberations toward a reform of the Civil Code for about four years. The content of the consultation by the Minister of Justice was as follows:[12]

> Regarding the provisions of the Civil Code related to the law of obligations, from the viewpoint of aiming at corresponding to the changes in society and economy after the enactment of the Code, and making the Code easily comprehensible for the people in general, it is thought that there is the need for a review centering on the provisions related to the contracts which are in a close relation to the everyday life and the economic activities for the people. Therefore, I hereby ask you to present me the outline of such a review.

Namely, two points were indicated as the central purpose of these deliberations: (a) to aim at corresponding to the changes in society and economy after the enactment of the Civil Code, and (b) to make the Civil Code easily comprehensible to the people in general.

Further, it was also indicated that the object of such deliberations in the Special Committee were the provisions related to contracts. This includes most of Part 3 (obligations) except those on *negotiorum gestio* (management of business) and unjust enrichment and torts, and it also includes some parts of Part 1 (general provisions: *Allgemeiner Teil*), which are closely related to contracts – for example, parts of juristic acts, agency, prescription, and so on.

3. Course of Deliberations after the Establishment of the Committee[13]

a) Interim Report of Points at Issue

For about a year and a half starting in November 2009, the Committee considered the specific items that needed to be amended and the points that should be deliberated. In May 2011 it published the Interim Report of Points at Issue Regarding the Reform of the Civil Code (law of obligations),[14] and brought it to the procedure of public comments.

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12 See *http://www.moj.go.jp/content/000103338.pdf*, last retrieved on 14 November 2013.

13 The details of the deliberation and the materials used by the Committee are available at the Ministry of Justice website: *http://www.moj.go.jp/shingi1/shingikai_saiken.html*, last retrieved on 14 November 2013.

14 *http://www.moj.go.jp/content/000074989.pdf*. The detailed explained version is: *http://www.moj.go.jp/content/000074988.pdf*. Both last retrieved on 14 November 2013.

4. Publication of the Interim Draft Proposal

After that we continued the deliberations for another year and ten months. During this period we carefully examined the items to be amended and defined the contents of the reform as clearly as possible, summarizing them in the form of an "Interim Draft Proposal on the Reform of the Civil Code (law of obligations)."[15] The Interim Draft Proposal was decided by the Committee in February 2013 and was published on 11 March 2013 and brought to the procedure of public comments.

a) Final Stage

After the publication of the Interim Draft Proposal, the Committee proceeded to the final stage. It is currently preparing a Final Draft for the Reform Proposal, taking into consideration the opinions gathered through the public comments as well.

IV. Outline of the Interim Draft Proposal

In the following, I would like to refer to some especially important items of the Interim Draft Proposal.

1. Provisions on Juristic Acts

I would first like to mention the reform of the provisions on juristic acts. More specifically, I would like to begin with the stipulation of provisions regarding *mental capacity*.

Although there has been no divergence of opinion since early times regarding the fact that juristic acts that have been performed under a lack of mental capacity are void, no definite provision concerning this exists in the Civil Code. Therefore, the stipulation of such a provision is proposed.

Further, the stipulation of *usury* could also be mentioned as an example. The provision of Article 90 of the Japanese Civil Code provides that "[a] juristic act with any purpose which is against public order and morals is void," though it does not particularly concretize usury. Nevertheless, precedents and theory have admitted in the past that usury forms a category of the acts, which are against public order and morals. Thus, it is proposed to stipulate this in a provision of the Civil Code.

The stipulation of a provision regarding "mistake about motive" could be mentioned in the same context as well. The existing Article 95 of the Civil Code only provides that "[m]anifestation of intention has no effect when there is a mistake in an element of the juristic act in question; provided, however, that the person who made the manifestation of intention may not assert such nullity by himself/herself if he/she was grossly negligent."

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15 *http://www.moj.go.jp/content/000112242.pdf; http://www.moj.go.jp/content/000112244.pdf; http://www.moj.go.jp/content/000112247.pdf*. All three last retrieved on 14 November 2013.

There has been discussion in the past about whether the same provision also applies to "mistakes about motive." Regarding the requirements of such mistakes about motive, it is now proposed to stipulate a provision containing the relevant legal principles developed by precedents.

Further, concerning the effects of such mistakes, it is proposed to amend the existing provision so as not to declare such acts as void as they are currently, but subject to avoidance. Moreover, it is proposed that the provision regarding mistakes should also stipulate about mistakes caused by a type of fraudulent representation (a kind of misrepresentation).

2. Prescription

Let us now move on to the system of *prescription.* While the above-mentioned amendments of provisions related to juridical acts are tainted by the tendency to clarify already admitted theories, in the case of prescription, a substantial change of the existing system is being considered.

First, under the existing Civil Code, on the one hand, the right of claim in general is extinguished if it is not exercised for ten years since the point of time when it was possible to exercise the relevant right. On the other hand, different periods of prescription have been stipulated regarding various types of professions – for example, a one-year period for the eating and drinking charges to be paid to restaurants or bars, two years for any claim regarding the duties of an attorney, three years for any claim regarding medical services provided by a doctor, and so on.

However, these provisions regarding the period of prescription have been strongly criticized. On the one hand, the period of ten years is considered to be too long in light of the transaction speed in modern societies, and on the other hand the provisions on short periods of a prescription of one, two, or three years are not only complicated but also lack justifiability nowadays. Therefore, a readjustment of this complex prescription system together with a review of the period of prescription is being considered.

More specifically, there are two proposals concerning prescription. Proposal A suggests that the period of prescription should be five years commencing from an objective point of time. Proposal B suggests maintaining the long period of prescription of ten years commencing from an objective point of time, and introducing short periods of prescription of three or five years commencing from a subjective point of time. Thus, proposal B suggests a combination of a long and a short period of prescription, the same as in PECL or the new law of obligations in Germany.

Some other issues are also being discussed, such as whether a short period of prescription should be established only for obligations of consumers to businesses, or whether special rules should be established regarding the right to damages due to damage incurred by injury or death. A review of the grounds of interruption and suspension is also under consideration.

3. Performance and Non-performance of Obligations

Amendments regarding the rules related to performance and non-performance of obligations are also being proposed. It is proposed to stipulate an obligee's right to performance, which has been admitted in theory from the past, as well as its limits. The same has been proposed for the right to subsequent completion.

Further, an amendment of the requirements for cancellation due to non-performance is also being proposed. Under the existing provisions of the Civil Code, the existence of reasons attributable to the obligor is required so that the obligee may cancel the contract.

However, according to theory, there has been a general acceptance of the opinion that cancellation is an issue of release from the binding force of the contract, and no existence of reasons attributable to the obligor should be required. It is therefore proposed to insert this opinion in the provisions of the Civil Code. In relation to this, the abolition of the existing provisions on the assumption of risk is also proposed. However, provisions regarding the point of time when the danger is transferred to the buyer are separately established.

Further, concerning damages due to non-performance, an opinion was initially considered that would not have required reasons attributable, and liability for damages would have been exempted only when grounds for such an exemption existed.

However, the proposal regarding this point has been shelved. The reason for this was that the notion of a "reason attributable" has not been used as an equivalent to the notion of "negligence." Judgments regarding liability have instead been made from the viewpoint of whether it is appropriate to attribute the non-performance to the obligor, taking into account the circumstances of both the obligor and the obligee, in light of the purpose of the contract, and it has been regarded as proper to take such circumstances into account.

4. Guarantee

Another point that has drawn attention is the amendment of the guarantee provisions, especially the extension of the policy for the protection of the guarantor.

In Japan, many tragic cases have been reported of people who could not refuse when asked by acquaintances to become guarantors, subsequently underwent a collapse of daily life, and were sometimes led to suicide. Such cases have already been treated with the reform of 2004, which established a provision stipulating that no contract of guarantee is effective unless it is made in writing, setting a maximum amount in cases of revolving mortgages on loans, etc. that are of especially high risk, and stipulating a maximum duration of five years for such revolving mortgages. However, since problems related to guarantee continued to exist, a more radical reform for the protection of guarantors is newly under consideration.

This reform consists of four points:

First, an extension of the application of rules related to revolving mortgages was introduced in 2004 to include revolving mortgages on contracts other than loans, etc.

Second, a restriction of personal guarantees was established in cases of financing to companies, etc.

Third, an obligation of the obligor was stipulated to provide certain information to the guarantor at the time of conclusion of the guarantee contract as well as during the continuance of the contract.

Fourth, a provision was introduced that would reduce or exempt guarantee obligations if they are excessive, taking into consideration the property and income of the guarantor as well as other circumstances.

Regarding the last point, some options are possible from a technical legal point of view, i.e., it is possible to stipulate that the court may reduce or exempt the guarantee obligation, or that the obligee cannot claim for the performance of the exceeding part.

5. Regulation of Standard Clauses

Another point that I would like to mention is the suggestion of the Interim Draft Proposal for an introduction to the Civil Code of a private law rule regarding the regulation of standard clauses.

Currently in Japan, there are no general private law rules related to the requirements for the incorporation of standard clauses into the contract or their effect. Although there has been debate in theory, precedents have accepted the incorporation itself of standard clauses into contracts under flexible requirements. Further, the only measures for a denial of the effect of such clauses have been general provisions such as public order and morals, good faith, etc., or a partial invalidity of substantially unfair standard clauses through an "interpretation" of them.

The Consumer Contract Act has been enacted in 2000 and includes provisions that stipulate the invalidity of unfair terms in consumer contracts. However, since these rules do not have to do with "standard clauses," no provision regarding the incorporation requirements has been established. Further, since the scope of application is restricted to consumer contracts, the regulation of unfair terms on the basis of the Act does not include standard clauses in other contracts.

Therefore, it is currently proposed to establish in the Civil Code rules related to the regulation of standard clauses, i.e., provisions mainly regarding the requirements for the incorporation of such clauses into contracts, the interpretation of such clauses, and the invalidity of unfair standard clauses.

6. Special Part of Contract Law

There are many suggestions regarding the provisions on the various types of contracts as well. Due to limited time, I will mention only two examples.

The first example has to do with the provision in sale contracts on a seller's warranty against defects. There has been debate in the past about the legal nature of such a warranty and the notion of defect. The Interim Draft Proposal stipulates this warranty as an

issue of cases where the subject matter does not conform to the purpose of the contract, and includes a provision about the right to subsequent completion as well.

The second example concerns the introduction of provisions related to deposits, etc., in lease contracts. In Japan, there are many disputes related to deposits in lease contracts, etc., and precedents have been accumulated. It is now proposed to stipulate such rules in the Civil Code.

7. Other Issues

The proposal refers to many other issues, such as reviews of the obligation relations between so-called multiple obligors, provisions on the assignment of claims, provisions on the obligee's subrogation right and the right to demand rescission of fraudulent acts, the establishment of provisions regarding the transfer of a position under a contract and debt assumption, the introduction of a system of variable interest rates regarding the statutory interest rate, etc.

V. Conclusion

1. Necessity of Reform

In this short presentation I have talked about the developments that led to the enactment of the existing Japanese Civil Code, the background of the deliberations regarding the Reform of the Civil Code and their development, as well as the outline of the Interim Draft Proposal of 2013.

Through my experience of participating in the deliberations for the last four years, I now clearly realize that there are many issues that need to be reviewed or reformed involving the whole area of contract law, and I am convinced that the purpose and the direction of the reform itself are not wrong.

2. Issues That Have Been Abandoned

However, there are also many issues that have not been dealt with satisfactorily.

I would like to talk briefly about the representative issue of the "integration of the notion of consumer and of the provision related to consumers in the Civil Code."

Up to the publication of the Interim Report of Points at Issue in 2011, the possibility of establishing the notion of consumer in the Civil Code – as in Germany – and incorporating important private law rules related to consumer contracts in the Civil Code have been objects of consideration. However, this proposal has raised opposition on the one hand from within economic circles, and on the other hand from civil law scholars who have been conducting comparative research between Japanese and French law. The "neutralization" of the Civil Code has been strongly emphasized by these circles.

The abandonment of the integration of consumer law provisions in the Civil Code has been quite disappointing for me. I believe that such an integration would have made it easier to ensure the connection of the Civil Code with consumer law provisions, and

would contribute to the development of private consumer law. Further, it would have provided an opportunity for future legal students to understand to some degree the the basic idea of consumer law. On a more concrete level, up to the stage of the Interim Report of Points at Issue, the introduction of a general provision related to consumer protection – which is not currently included in the Consumer Contract Act – was also under consideration. However, this has also been abandoned, together with the denial to introduce the notion of consumer.

Nevertheless, a provision related to this issue is still left in the Interim Draft Proposal. It is a so-called disparity contract provision, which stipulates that when applying provisions such as the one regarding good faith, disparities between the contracting parties shall also be taken into consideration. This provision may not only reconcile general private law with private consumer law, but will also provide the possibility of taking into consideration the interests of the party that is in an inferior position in business-to-business contracts as well.

3. Future Perspectives

It is still indefinite when the current draft on the reform of the Civil Code will be summarized in the form of a definite proposal and eventually become an Act.

However, the Committee is aiming at completing the deliberations in one year and submitting a bill to Parliament within two years. There is still opposition, though sometimes the content of the opposition is motivated by lawyers who have become familiar with the existing provisions and may launch their opposition on grounds that may not be regarded as reasonable, such as fear of changing the existing provisions.

We hope that the reform work will be successful and obtain a substantial content that will be able to support future transactions in the society.

With this I would like to conclude my presentation. Thank you very much for your attention.

SUMMARY

In her presentation the author discusses the developments that led to the enactment of the present Japanese Civil Code, the background of the deliberations regarding the reform of the Civil Code, and gives an outline of some prominent items of the Interim Draft Proposal of 2013. The lecture begins by briefly describing the circumstances under which the existing Japanese Civil Code was enacted at the end of the 19th century, taking influences by the French and German Civil Codes into account. Subsequently, the various reasons, which led to discussions about necessity of reform, are given. The objectives of the reform to corresponding to changes in the society and economy and to making the Civil Code comprehensible to the people in general are introduced and the course of deliberations is presented. Based on this background information, the author

draws attention to some especially important items of the Interim Draft Proposal 2013, namely changes regarding provisions on juristic acts, prescription, performance and non-performance of obligations, guarantee, regulation of standards clauses and two special types of contracts. The presentation ends by emphasizing the necessity of reform, criticizing the fact that certain issues have been eliminated from the agenda, and expressing hope that a revised Civil Code can be enacted in the near future thereby contributing to smoother transactions in society.

(The Editors)

ZUSAMMENFASSUNG

In ihrem Vortrag spricht die Verfasserin über die Entwicklungen, die zum Inkrafttreten des gegenwärtigen japanischen Zivilgesetzes geführt haben, sowie über die Hintergründe der Beratungen zur Reform des Zivilgesetzes und gibt einen Überblick über einige wichtige Gegenstände des Vorläufigen Entwurfs zur Reform des Zivilrechts 2013. Der Vortrag beginnt mit einer kurzen Erläuterung der Umstände, unter denen das gegenwärtige japanische Zivilgesetz am Ende des 19. Jhd. geschaffen wurde, und nimmt Bezug auf die Einflüsse des französischen und deutschen Zivilrechts. Im Anschluss daran werden die verschiedenen Gründe genannt, die zu den Reformdiskussionen geführt haben. Das Ziel der Reform, das Recht an den gesellschaftlichen und wirtschaftlichen Wandel anzupassen und das Gesetz in eine für die Allgemeinheit verständliche Form zu bringen, wird ebenso vorgestellt wie der zeitliche Verlauf der Beratungen. Aufbauend auf diesen Hintergrundinformationen lenkt die Verfasserin die Aufmerksamkeit der Zuhörer auf einige besonders wichtige Gegenstände des genannten Entwurfs von 2013, namentlich Änderungen der den allgemeinen Vorschriften über Rechtsgeschäfte, die Verjährung, die Erfüllung und Nichterfüllung von Verträgen und Bürgschaften sowie über die Regelung von Allgemeinen Geschäftsbedingungen und zwei besonderen Vertragstypen. Der Vortrag endet mit einer Betonung der Notwendigkeit einer Reform des ZGB und einer Kritik daran, dass bestimmte Aspekte von der Reformagenda gestrichen wurden. Die Verfasserin äußert die Hoffnung, dass ein überarbeitetes Zivilgesetz in naher Zukunft dazu beitragen wird, die Rechtsgeschäfte in der japanischen Gesellschaft zu erleichtern.

(Die Redaktion)