

**Second Study Commission  
Civil Law and Procedure**

**Questionnaire  
2025  
Baku**

“The increased presence of self-represented litigants in civil matters and its impact on the administration of justice: What have we learned in the last decade?”

1. Have you noticed an increase in the number of self-represented litigants who appear before your courts over the last 10 years?

The number of self-represented litigants has not increased.

2. Have the reasons for this increase been documented and if so, what are they in general?

As stated in 1, the number of self-represented litigants has not increased. (Therefore, the reasons have not been documented.)

3. In what type of cases do you mainly observe the presence of self-represented litigants?

Self-represented litigants are most commonly seen in typical cases, such as real-estate-related matters, loan repayment claims and purchase price claims.

4. Does the presence of self-represented litigants in a case have an impact on your role as a judge and, if so, in what way?

The presence of self-represented litigants has a certain level of impact on the judge's role in proceedings. Compared to cases where attorneys represent both parties, judges tend to participate more protectively toward self-represented litigants. For example, in proceedings to arrange issues that involve self-represented parties, judges tend to ask questions more actively in order to clarify a matter.

5. Have any measures been put in place to facilitate the journey of self-represented litigants before your courts and help judges face the challenges that this situation may create and if so, what are they?

In the past, judges, court clerks and university professors conducted empirical research on self-represented litigation. Judges handling civil cases can refer to a written report compiling the results of such research at any time.

6. Are these measures effective? If so, why, and if not, why?

The written report referenced in 5 contains examples of measures for judges to efficiently conduct proceedings in self-represented litigation and for this reason, it is believed that these measures are effective.

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- Does your country, as part of the criminal justice system, have alternatives to the traditional model, such as (i) alternative measures or diversion (where the charge is withdrawn or stayed by the prosecution in exchange for the accused doing something outside of the court system); (ii) therapeutic justice (such as a drug treatment court or a mental health court); (iii) restorative justice (such as a sentencing circle or a healing circle for Indigenous persons); or something else?

As a measure outside the scope of those listed in (i) to (iii) above, Japan has a medical observation system.

- If, yes, please describe in short which areas are covered, for example, alcohol, drugs, sex abuse, etc.

Homicide, arson, robbery, penetrative sexual assault, indecent assault and bodily injury.

However, this is limited to persons who committed acts corresponding to the above crimes (including attempted crimes) while in a state of insanity or diminished capacity and regarding whom a decision not to prosecute was made or a not guilty verdict or the like was finalized.

- If yes, please describe in short how it is carried out, for example, is it administrated by the courts or by an outside system?

The public prosecutor petitions the district court to determine whether an individual to whom the above answer applies should receive medical treatment and observation pursuant to the Act on Medical Care and

Treatment for Persons Who Have Caused Serious Cases Under the Condition of Insanity.

A person who receives a court decision (made by one judge and one designated physician) for medical treatment and observation receives medical treatment at a medical institution designated by the Minister of Health, Labour and Welfare or receives support from a probation office.

- If yes, please describe in short what are the sanctions - if any – if the offender does not complete the program

There are no sanctions for refusing the medical treatment and support decided by a court.

- If yes, please describe the advantages and disadvantages of these alternatives, and their success rate from your perspective as a judge

The system has the advantage of facilitating the social rehabilitation of those individuals who committed certain crimes in circumstances where they would not be held criminally liable under normal circumstances.

- In your role as a judge, do you perceive that the police have received expanded investigative powers that need no prior approval by the court, whether before or after they are exercised? If yes, give some examples of these powers. If yes, describe the advantages and disadvantages of these expanded police powers from your perspective as a judge

No information indicates that judges have this perception.

(Since the answer is not “Yes,” no response is needed.)

(Since the answer is not "Yes," no response is needed.)

Fourth Study Commission

Public and Social Law

Questionnaire

2025

Baku

The Impact of Non-Competition and Loyalty/Confidentiality Rules in a Global  
Economy

Questions:

1. Does your country have legislation regarding non-competition, loyalty, and confidentiality clause? If so, what are the main legal provisions?

In Japan, there is legislation concerning the duties of non-competition, loyalty and confidentiality. The main legislative provisions are as follows:

- Companies Act, Article 355 (directors' duty of loyalty)
  - Companies Act, Article 330, Civil Code, Article 644 (directors' duty of care of mandatary)
  - Companies Act, Article 356, paragraph (1), item (i) (directors' duty of non-competition)
  - Labor Contracts Act, Article 3, paragraph (4) (employees' duty of good faith)
  - Unfair Competition Prevention Act, Article 2, paragraph (1), item (vii) (employees and others' duty of confidentiality )
2. Are there any relevant judicial precedents or case law regarding the validity and enforcement of these clauses? Are there any divergences among courts?

Please provide concrete examples of court decisions and their impact.

There are no judicial precedents or court cases regarding the validity or enforcement of provisions relating to the duties of non-competition, loyalty and confidentiality.

3. What criteria are used in your country to determine the validity of these contractual restrictions, considering factors such as territorial scope, duration, and the type of work restricted? Are there specific limitations or requirements for their application?

Many court decisions concerning the validity of agreements that prohibit employees from competitive activities after their resignation recognize the validity of only non-compete clauses that have a reasonable scope, taking into consideration (1) the employee's position and role at the time of his or her resignation, (2) the specifics of the prohibited competitive activities, (3) the duration and geographical scope of the non-compete restrictions and (4) the presence and specifics of measures that compensate for the non-compete restrictions.

4. In practice, how do these clauses impact the labor market and competition in your country? Are they effective in protecting businesses, or do they hinder workers' mobility? Does the Internet and/or remote work affect the enforceability of the clauses? Are there specific challenges in the context of the global economy?

Responding to this question is not possible.