

# 日本民事诉讼法

## Japanese Civil Procedure Law

### 课程主讲人简介

CHO Zuiki, 教授, 2013 年在日本名古屋大学获得法学博士学位, 隶属于名古屋经济大学法学院, 博士生导师。曾先后在台湾大学法学院, 华盛顿大学亚洲法中心和康斯坦茨大学法学院访学, 精通日语和中文, 熟练掌握英文和德文。其研究领域包括: 民事诉讼法, 医事法及亚洲法。自 2015 年以来, 一直从事日本民事诉讼法的教学工作。迄今为止, 在各类学术期刊上发表论文近 20 篇, 并参与多项日本学术振兴会资助的科研课题。2023 年, 受乌兹别克斯坦国总统邀请, 在塔什干国立法律大学开展了日本医疗诉讼的专题讲座。

### Profile

CHO Zuiki, Professor, obtained his Ph.D. in Law from Nagoya University, Japan, in 2013. He is currently a faculty member at the School of Law, Nagoya University of Economics, and serves as a doctoral supervisor. Professor Cho has been a visiting scholar at the National Taiwan University College of Law, the Asian Law Center at the University of Washington, and the Faculty of Law at the University of Konstanz. He is fluent in Japanese and Chinese, and proficient in English and German. His research interests include civil procedure law, medical law, and Asian legal studies. Since 2015, he has been teaching Japanese civil procedure law. To date, he has published nearly 20 papers in various academic journals and has participated in several research projects funded by the Japan Society for the Promotion of Science. In 2023, at the invitation of the President of Uzbekistan, he delivered a special lecture on Japanese medical litigation at Tashkent State University of Law.

### 基本信息 Basic information

院系 School	法学院 School of Law
学科门类 Fields of Study	法学 law
所属一级学科名称 Disciplines	法学 law
所属二级学科名称 Sub-Disciplines	诉讼法学 Litigation Law
先修课程 Prerequisites	中国民事诉讼法 Chinese Civil Procedure Law
选课对象 Registration Recommendations	民事诉讼法学专业硕士研究生、博士研究生等 Master and doctoral students in civil procedure law, etc.
课时与学分 Lecture Hours & Credits	32 课时; 2 学分 32 Lecture Hours; 2 Credits
授课语言 Language taught	中文 Chinese

## 课程目标

该课程的教学目标是帮助学生掌握日本民事诉讼法的基本概念和原理，理解从起诉到判决的完整程序体系，并深入分析经典判例，最终实现对法律条文、通说及判例的全面掌握。该课程注重理论与实践的结合，并探讨最新修法的主要议题，培养批判性思维和中日法学的跨文化比较能力。通过本课程，学生将获得扎实的日本民事诉讼法知识，并能够在未来的理论研究和法律实务中有效运用这些知识，同时增强国际化法律职业素养。

## Learning Goals

The objective of this course is to help students master the basic concepts and principles of Japanese civil procedure law, understand the complete procedural system from filing a lawsuit to judgment, and deeply analyze classic case law, ultimately achieving a comprehensive understanding of legal texts, prevailing doctrines, and case precedents. The course emphasizes the integration of theory and practice, while also addressing key issues in recent legal reforms. It aims to foster critical thinking and the ability to conduct cross-cultural comparisons between Japanese and Chinese legal systems. Through this course, students will gain a solid foundation in Japanese civil procedure law and be able to apply this knowledge effectively in future theoretical research and legal practice, while enhancing their international legal professionalism.

## 课程内容

该课程共分为 16 个模块分别讲授。模块内容如下：1 绪论；2 法院（管辖，移送，除斥·忌避·回避）；3 当事人（当事人的概念和确定，当事人能力，诉讼能力）；4 诉（诉的种类，诉状，重复起诉的禁止）；5 诉讼标的（诉讼标的论）；6 诉讼要件（诉的利益，当事人适格）；7 当事人的辩论活动和法院的职能（处分权主义，辩论主义，职权进行主义）；8 口头辩论和其准备程序（审理的原则，期日，辩论的分离·合并）；9 证据（证据法总论和分论）；10 基于当事人行为的诉讼结束（撤诉，请求的放弃和认诺，裁判上的和解）；11 基于法院判决的诉讼结束（既判力·执行力·形成力，争点效，反射效）；12 上诉和再审；13 多数当事人的诉讼（诉的合并·变更，反诉，中间确认之诉）；14 复数请求的诉讼（共同诉讼，诉讼参加）；15 简易程序；16 日本民事诉讼法的现代化改革。

## Content

This course is divided into 16 modules: 1.Introduction; 2.Courts (Jurisdiction, Transfer, Exclusion, Recusal, and Avoidance) ; 3.Parties (Definition and Determination of Parties, Capacity to Be a Party, Litigation Capacity); 4.Lawsuit (Types of Lawsuits, Pleadings, Prohibition of Repetitive Litigation); 5.Subject Matter of Litigation (Theory of Subject Matter of Litigation); 6.Conditions for Filing a Lawsuit (Interest in the Lawsuit, Standing of the Parties); 7.Parties' Debate Activities and the Court's Functions (Doctrine of Disposition, Adversarial System, Amtsbetrieb); 8.Oral Arguments and Preparation Procedures (Principles of Hearing, Hearings, Separation and Consolidation of Arguments); 9.Evidence (General and Special Topics of Evidence Law); 10.Termination of Litigation Based on the Actions of the Parties (Withdrawal of Lawsuit, Waiver of Claims and Admission, Settlement in Judgments); 11.Termination of Litigation Based on Court Judgment (Res Judicata, Enforceability, Constructive Effect, Issue Preclusion, Collateral Estoppel); 12.Appeal and Reexamination; 13.Lawsuits Involving Multiple Parties (Consolidation and Change of Lawsuits, Counterclaims, Suits for Declaratory Judgments); 14.Litigation Involving Multiple Claims (Class Action, Intervention in Lawsuits); 15.Simplified Litigation Procedures; 16.Modern Reforms in Japanese Civil Procedure Law.