

State Immunity from Civil or Administrative Jurisdiction — Restrictive Theory of Immunity — Distinction between Acts *Jure Imperii* and Acts *Jure Gestionis* — Consent by a Foreign State to be Subjected to Dispositions by an Administrative Agency of the Forum State

Tokyo District Court, Ruling, January 24, 2007;
not yet reported*

X v. The Mayor of Shibuya Ward
X v. The Building Manager of Shibuya Ward

On January 30, 2004, the Sultanate of Oman (hereinafter, "Oman") purchased and acquired a proprietary right over a site in Shibuya Ward (hereinafter, "the site"). It planned to construct a building of 6690.53m² in total floor space and 24.85m in height on the site as an embassy, ambassador's residence, and living quarters for embassy personnel (hereinafter, "the building"). The petitioners X1 and X2 (collectively referred to as "X"), who possess compartmentalized ownership of a building on the land adjacent to the site, fearing the construction would make disadvantageous effects on their rights for sunshine etc. negotiated with the agent of the Oman Embassy requesting the change of construction plan. However, the Oman side refused the reconsideration of the original plan.

Since the site did not satisfy the requirements laid down in Article 4(2) of the Tokyo Metropolitan Building Safety Ordinance (1950 Ordn. (Tokyo) No.89; hereinafter, "the Ordinance"), the building could not be constructed as planned unless the Mayor of Shibuya Ward provided an approval under Article 4(3), to the effect that the building had no problems as to its safety.¹ On April 12, 2006, Oman's Ambassador to

* Translated by Kenjiro Nishimoto.

¹ Article 4 of the Tokyo Metropolitan Building Safety Ordinance provides that:

(1) The site of a building over 1000m² in total floor space shall, depending on the total floor space, meet with the road for the minimum length provided in the table below:

total floor space	length
over 1000m ² and not over 2000m ²	6m
over 2000m ² and not over 3000m ²	8m
over 3000m ²	10m

(2) For the application of the previous paragraph to a site of a building over 3000m² in total floor space and over 15m in height, the 'road' in the said paragraph shall be a 'road not under 6m in width.'

(3) The preceding two paragraphs shall not be applied when the Governor approves, based on the condition of empty space surrounding the building or any other condition of land and surroundings, that there is no problem as to safety.

The Mayor of Shibuya Ward is entitled to issue an approval under Article 4(3) of the Ordinance in accordance with the Ordinance on Special Rules for Administration of Tokyo Metropolis

Japan, as the owner of the building, made an application to the Mayor of Shibuya Ward for an approval under Article 4(3) of the Ordinance (hereinafter, "the application"). The Mayor of Shibuya Ward provided an approval dated May 15 of the same year to the Ambassador, pursuant to Article 4(3) of the Ordinance (hereinafter, "the approval").

On June 1, 2006, the Ambassador submitted a Building Plan Outline in his name as the owner of the building to the Building Manager of Shibuya Ward. The Building Manager of Shibuya Ward issued a building confirmation dated July 27 of the same year, pursuant to the Building Standards Law (hereinafter, "the building confirmation").

The petitioners X filed actions seeking revocation of the approval and building confirmation (hereinafter referred to as "the claims") on November 29, 2006, claiming that the construction of the building will be detrimental to them with respect to sunshine access and other matters, and made a petition under Article 25(2) of the Administrative Case Litigation Law to suspend the effect of the approval and building confirmation, claiming that there is an urgent necessity to avoid material damage that will be caused by the approval and building confirmation.

- Held: 1. The effect of the building confirmation dated July 27, 2006 and issued to the Sultanate of Oman by the Building Manager of the Shibuya Ward shall be suspended until rendering of the judgment of the first instance on the claims (Case on application for revocation of building confirmation, etc., Case 2006 (Gyo u) No. 653 of this court).
2. The remainder of the petition by Petitioner X1 shall be dismissed.
3. All of the petition by Petitioner X2 shall be dismissed.
4. As to the cost of the petition, one half of the cost incurred by the opponents and all of the cost incurred by Petitioner X2 shall be born by Petitioner X2; one fourth of the cost incurred by the opponents and one half of the cost incurred by Petitioner X1 shall be born by Petitioner X1; and one half of the cost incurred by Petitioner X1 and one fourth of the cost incurred by the opponents shall be borne by the opponents.

Upon grounds stated below

"The main issues in this case are: (A) Whether the jurisdiction of the Japanese court extends to the petitions, (B) Whether the approval and building confirmation fall under "dispositions" and other acts involving the exercise of public authority by administrative agencies" (hereinafter, "dispositions") as provided in Article 3(2) of the Administrative Case Litigation Law, (C) Whether the sections of

¹ in Special Wards (1999 Ordo. (Tokyo) No. 106)

the petitions seeking suspension of the force of the approval possess benefit of suit, (D) Whether the current case satisfies the requirement of "an urgent necessity to avoid material damage" (Article 25 (2) of the Administrative Case Litigation Law), (E) Whether the suspension of the effect of the approval and building confirmation poses a risk of causing a serious adverse effect to the public welfare (Paragraph 4 of the same Article), (F) Whether the claims on the merits of the case appear to be groundless (same paragraph)."

1 On Issue (A): Whether the Jurisdiction of the Japanese Court Extends to the Petitions

(1) First of all, we must consider to whom the approval and building confirmation was made. Relevant facts are as follows. (i) Oman's Ambassador to Japan is regarded to be the legal owner of the building. (ii) The construction of the building was planned as an Embassy, ambassador's residence, and living quarters for embassy personnel. Oman has the proprietary right over the land on which the construction of the building is being undertaken. (iii) In Japan, governments and governmental organs of foreign States designated by the Minister of Finance (this includes Oman) can validly acquire existing land and buildings upon recognition by the Minister of Finance (Order on the Acquisition of Rights Relating to Immovable Property by Foreign Governments (1949 Ord. (Min. Fin.) No. 311), hereinafter, "the Order"); in addition, it is possible for a foreign State to acquire a valid proprietary right over any new construction without recognition by the Minister of Finance. (iv) One of the functions of the diplomatic mission is to represent the sending State in the receiving State (Article 3(1)(a) of the Vienna Convention on Diplomatic Relations), and the Ambassador is the head of the mission (Article 1(a) of the same Convention). (v) "The announcement of construction plan" posted on the site indicated the "Sultanate of Oman" as the owner of the building. Taking into account all the factors described above, it is to be concluded that Oman's Ambassador to Japan did not become the owner of the building as a private individual, but acted as the direct representative of Oman in Japan. Therefore the addressee of the approval and building confirmation is Oman, and not Oman's Ambassador to Japan as a private individual.

(2) Oman is not the defendant in this case; however, if we assume for the purposes of argument that the approval and building confirmation are both dispositions, and that both dispositions will be revoked on the merits, Oman will be the party primarily affected by the eventual outcome of the case, and the party unable to construct the building at issue. This possible impact on a foreign State provides a potential basis for placing the merits of the case beyond the jurisdiction of the Japanese court. If the case is not subject to the exercise of jurisdiction by the Japanese court, we will be unable to reach a determination on the merits of the legality of the building confirmation, and likewise unable to make a determination concerning the present petition. Therefore, we must first examine whether

this case is subject to the exercise of jurisdiction by a Japanese court.

(3) A. When matters such as the legality of dispositions against a foreign State are contested in judicial proceedings, it is necessary to consider whether the foreign State is subject to the civil or administrative jurisdiction of Japan. The traditional rule in this area of international law was based on the theory that a foreign State in principle enjoyed immunity from the civil and administrative jurisdiction of the forum State, except for special cases, such as those involving immovable property situated in the forum State, or those where the foreign State had agreed to subject itself to the civil or administrative jurisdiction of the forum State (hereinafter, we will refer to this view as "the absolute theory of immunity"); however, with the expansion of the scope of State activities, a more restrictive theory of immunity has gradually gained support. This modern rule holds that immunity from the civil or administrative jurisdiction of the forum State shall not be extended to private law acts or acts *jure gestionis* of foreign States, as distinguished from their acts *jure imperii* (hereinafter, we will refer to this new view as "the restrictive theory of immunity"). Today, a large number of States have adopted measures restricting the scope of foreign States' immunity under this modern rule; in addition, the restrictive theory of immunity has been officially sanctioned under the United Nations Convention on Jurisdictional Immunities of States and their Property, as adopted by the 59th General Assembly of the United Nations on December 2, 2004. Under such circumstances, while we are able to affirm the continued existence of the customary international law rule that grants immunity from civil and administrative jurisdiction of the forum State with regard to acts *jure imperii* of foreign States, we conclude today that there no longer exists a customary international law rule that grants a foreign State immunity from civil or administrative jurisdiction with regard to private law acts or acts *jure gestionis*. While a grant of immunity to foreign States acting in their sovereign capacity is mutually justified on the basis that States hold independent sovereignty and are equal to one another, there is no reasonable justification for granting immunity from civil or administrative jurisdiction to a foreign State with regard to private law acts. Japan's exercise of civil or administrative jurisdiction in the latter cases normally will not infringe on the sovereignty of a foreign State. Indeed, granting immunity from civil or administrative jurisdiction to a foreign State in cases where the exercise of such jurisdiction would not infringe on the foreign State's sovereignty would produce inequitable consequences: recourse to judicial remedy would be unilaterally denied to the private individuals who bear the risk of incurring damage from acts *jure gestionis* of a foreign State. For these reasons, we hold that a foreign State does not enjoy immunity from Japan's civil or administrative jurisdiction with respect to its private law acts or acts *jure gestionis*, except under special circumstances such as those in which the exercise of civil or administrative jurisdiction is likely to infringe upon the sovereignty of the foreign State (Supreme Court, P.B. II, Judgment, April 12, 2002, 56 *Minshu* (4) 729

[2002]; Supreme Court, P.B. II, Judgment, July 21, 2006, 1416 *Saibansyo Jibo* B [2006]).

Thus, when an act of a foreign state is not an act *jure imperii* but a private law act or act *jure gestionis*, and unless there is some special circumstance to the effect that the exercise of civil or administrative jurisdiction by Japanese courts runs the risk of infringing on the sovereignty of the foreign State, the courts of Japan may make decisions in judicial proceedings contesting the legality of dispositions regarding an act of a foreign State.

B. As for the distinction between acts *jure imperii* and acts *jure gestionis*, the following considerations should be taken into account: (i) The scope of the immunity of foreign States from the jurisdiction of the Japanese court is to be decided based on the principle that, to the extent the foreign State's sovereignty is not infringed upon, judicial protection of rights and interests must be afforded to persons involved in transactions with a foreign State, as well as to those who will suffer or carry the risk of suffering from any legal detriment that results from dispositions against a foreign State. (ii) In determining this scope, any theory that attempts to draw a line based on the purpose or motive of the foreign State's act runs the risk of being subjective, since, under this theory, cognizance of the foreign State that performed the act would necessarily form the basis of this determination. (iii) In comparison, a theory that bases the distinction on the legal character of the act of the foreign State is more objective and provides a more consistent criterion for decision. Under this theory, acts that private individuals are able to perform are considered private law acts or acts *jure gestionis*, and are not subject to jurisdictional immunity. Acts that only a State are able to perform are subject to jurisdictional immunity; they are considered public acts in the sense that they serve governmental functions based on the State's sovereign status. (iv) However, even if the act is *prima facie* a private law act or act *jure gestionis*, there may be cases where it is inappropriate to categorically determine the act's status based on its legal character (for example, if the act is closely related to an exercise of power belonging to the diplomatic, legislative, administrative, military or judicial spheres). Thus, it is not always appropriate to completely eliminate the purpose or motive of the foreign State from the criterion distinguishing between acts *jure imperii* and acts *jure gestionis*. With the problem indicated in (ii) above firmly in mind, the purpose or motive of the foreign State must simply be considered as a single element in the overall determination of whether a foreign State's act is similar in character to that of a private individual or is an act that only a State can perform.

(4) A. (i) In Japan, private individuals are free to construct buildings listed in

¹ English translation of each judgment is available at *Japanese Annual of International Law*, No. 46 (2003), pp. 161-163 and No. 49 (2006), pp. 144-149.

Article 6(1) of the Building Standards Law. (ii) [...] The construction of the building at issue in this case began in October 2006, and was scheduled for completion in February 2008. The application stated that, upon completion, "the main uses of the building" would be as an "embassy, ambassador's residence, and living quarters for embassy personnel." At present, the Embassy of Oman' address is α-XX-11, Shibuya Ward, Tokyo. (iii) The premises of a mission is defined as the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purposes of the mission, including the residence of the head of the mission (Article 1(i) of the Vienna Convention on Diplomatic Relations). Thus, although the new building is currently under construction, and is planned as the future premises of the mission, it does not constitute the premises of the mission sent by Oman to Japan at present. (iv) Since the premises of the mission constitute the center of diplomatic activities of a foreign State in Japan, the foreign State's initial acquisition of a building as the premises of the mission for the purpose of conducting diplomatic activities can be regarded as part of the foreign State's diplomatic activities in Japan, regardless of whether it is acquired by purchase or rent of an existing building, or new construction of a building. In this sense, the initial acquisition of the premises can only be conducted by a foreign State. For a foreign State that has already acquired and is using a building for the premises of a mission in Japan, however, the acquisition of another building to replace the current building cannot necessarily be viewed as part of its diplomatic activities. This act cannot be characterized as an act that only a foreign State is able to perform unless there exist circumstances that necessitate the conclusion that the act should be considered a part of the State's diplomatic activities. Upon consideration of all the documents produced to the court, nothing suggests that the acquisition of the building by Oman should be considered a part of the diplomatic activities of Oman. Therefore, we conclude that the construction of the building by Oman is not an act that only a foreign State is able to perform, but is rather an act similar to those performed by private individuals.

Thus, we conclude that the construction of the building is an act *jure gestionis*, and that Oman's immunity from the civil and administrative jurisdiction of our court cannot be granted on the basis that construction of the building is a sovereign act of Oman.

B (a) It is accepted, even under the absolute theory of immunity, that actions relating to immovable property situated in the forum State are subject to the jurisdiction of the forum State. Because, in those cases, the substance of rights in question are rights concerning the direct domination of immovable property and may conflict with territorial sovereignty of the forum State, the forum State jurisdiction is admitted to be applied out of respect for its territorial sovereignty. Therefore we understand the class of actions relating to immovable property situated in the forum State which should be the subject of the forum State's jurisdiction as that of actions having immovable property owned by foreign States as

their direct object.

It must be added that, in Japan, governments and governmental organs of foreign States so designated by the Minister of Finance cannot validly acquire existing land or buildings in whole or in part, or installations ancillary to such land and buildings, without recognition by the Minister of Finance (Articles 2, 3(1), and 4 of the Order). Although this Order requires recognition by the Minister of Finance for the acquisition of land, buildings, and ancillary installations that already exist, it does not require such recognition when the foreign State acquires a building through new construction. Thus, foreign States may acquire valid proprietary rights to buildings through new construction without recognition by the Minister of Finance. We therefore conclude that actions relating to immovable property situated in the forum State must be construed to include not only actions relating to land, buildings, and ancillary installations that are already owned by the foreign State, but also actions relating to buildings under construction by the foreign State.

It must be also noted that Article 31(1)(a) of the Vienna Convention on Diplomatic Relations provides for jurisdictional immunity in case of a real action against a diplomatic agent who holds immovable property on behalf of the sending State for the purposes of the mission. The rationale of this provision is that immunity from the jurisdiction of courts of the receiving State should be granted in cases over an immovable property where a foreign State acquires the property in the name of the head of a diplomatic mission or other diplomatic agents. For, the laws of some States prohibit foreign States from acquiring immovable property, making it impossible for a foreign State to acquire immovable property in its own name. The immovable property in this situation actually belongs to the foreign State that sent the diplomatic agent, even if it nominally belongs to the individual agent. So interpreted, this provision does not alter the conclusion that an action relating to immovable property not currently in use for the purposes of the mission is not subject to jurisdictional immunity, even though immovable property owned by a foreign State and currently in use for the purposes of the mission must be excluded from actions relating to such property. (b) Although the new building is currently under construction, with a plan to be used as the premises of the mission after its completion, the actual premises of Oman's mission are currently located in a separate building. The substance of the present action concerns rights associated with the building under construction as its direct object. Because this building is not the current premises of Oman's mission, immunity from the civil and administrative jurisdiction of Japan as the forum State can therefore not be granted.

(5) From the above, we conclude that Oman cannot be granted immunity from the civil and administrative jurisdiction of our court in the current case where the legality of the approval and the building confirmation is at issue.

2. On Issue (B): Whether the Approval and Building Confirmation is a Disposition

The petitions under Article 25(2) of the Administrative Case Litigation Law seeking the suspension of the effect of the approval and building confirmation presuppose that the approval and building confirmation fall under the category of "dispositions" involving the exercise of public authority. We hold that the building confirmation by the Building Manager does constitute such a disposition; it has a legal effect insofar as one cannot construct a building without such confirmation. The approval made by the Mayor of Shibuya Ward in accordance with the Ordinance also constitutes a disposition; it has legal effects insofar as it directly affects the legal status of the applicant and shapes or fixes the scope of each applicant's rights and obligations.

(3) A. (i) A disposition means an act in which an administrative agency, as an actor with superior will, conducts unilateral decision-making under special authorization by law and without regard to the will of the addressee, with the effect that the administrative agency may coerce acceptance of the results by the addressee. When the addressee of the disposition is a foreign State, an administrative agency of Japan may not coerce acceptance of the results of its unilateral decision-making due to considerations of sovereign equality. (ii) Since property that foreign States possess in Japan (hereinafter, "foreign State property") may, in addition to the premises of the mission, include other property that foreign States may use for sovereign functions, taking forcible execution measures against such foreign State property may involve a substantial risk of hindering the foreign State's sovereign activities in Japan. It is therefore generally understood that forcible execution against foreign State property is not permissible without the consent of the foreign State concerned, unless special provisions of treaties apply. (iii) As already indicated, dispositions are acts of local or State public officials and agencies in their role as holders of public authority, and are recognized under law to have the effect of directly shaping or fixing the scope of the addressee's rights and obligations. Considering that dispositions against foreign States do not differ from forcible execution against foreign State property in terms of the risk of hindering the foreign States' sovereign activities, we conclude that administrative agencies may coerce foreign States into acceptance of their decisions only in cases where the foreign State has given previous consent. Dispositions against foreign States are therefore valid only when there exists prior consent by the foreign State to subject itself to the decision of the local authority.

B. We cannot state in general when consent of a foreign State can be regarded to exist. However, (i) the United Nations Convention on Jurisdictional Immunities of States and Their Property, while not yet ratified by Japan, provides that pre-judgment or post-judgment measures of constraint, such as attachment or arrest

against property of a State, may [sic] be taken in connection with a proceeding before a court of another State unless and except to the extent that the State has expressly consented to the taking of such measures by international agreement, by an arbitration agreement or in a written contract, or by a declaration before the court or by a written communication after a dispute between the parties has arisen (chapeau and paragraph (a) of Articles 18 and 19). This provides some guidance on when consent of a foreign State can be regarded to exist. (ii) However, although dispositions directly shape or fix the scope of the addressee's rights and obligations, the substance of rights and obligations to be shaped and the scope of the rights and obligations to be fixed are diverse, and include so-called beneficial dispositions that either extend the addressee's rights or lessen the addressee's obligations. (iii) It is conceivable that a foreign State would apply to an administrative agency in Japan for a beneficial disposition, seeking considerations such as international comity. However, when a foreign State applies for a disposition to an administrative agency in Japan under the circumstance that there exists a dispute concerning the making of a disposition addressed to a foreign State, between the foreign State as the addressee of a beneficial disposition and the person that would be legally disadvantaged or risks such if the disposition is made, it is fully possible to consider that the foreign State made the said application to the administrative agency with an eye to seek a ruling concerning the aforementioned dispute. (iv) If it were not possible to view the matter in this way, the foreign State as one of the parties to the dispute discussed in (iii) will enjoy the benefits of the extension of rights or lessening of obligations by the disposition even if it was illegal, with no judicial remedy being available to the other party who would be legally disadvantaged or risks such because of the disposition. This outcome cannot be tolerated given the current lack of administrative measures to mitigate the disadvantages arising from this situation (for example, Article 18 (5) of the Agreement Under Article VI of the Treaty of Mutual Cooperation and Security Between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan creates a system for the settlement of tort claims against the armed forces of the United States as a State organ of a foreign State, against the backdrop of customary international law on immunity of foreign States from civil jurisdiction (see aforementioned Supreme Court, P.B. II, Judgment, April 12, 2002)). Considering these factors together, it must be concluded that when a foreign State makes a written application for a disposition to an administrative agency under the circumstance that there exists a dispute concerning the making of a disposition that extends the rights or lessens the obligations of the addressee between the foreign State as the addressee and the person that would be legally disadvantaged or risks such, it is appropriate to consider the consent of the foreign State as expressly provided through the application itself, unless there

¹ The Convention stipulates that the measures of constraint may not be taken unless the State has expressly consented.

exists some special circumstance evincing that the application was made merely as a matter of international comity, and not for the purpose of seeking a ruling upon the aforementioned dispute.

Although we cannot state in general the scope of all cases in which consent of a foreign State can be said to exist, when a foreign State makes a written application seeking a disposition under the circumstance that there exists a dispute concerning the making of a disposition between the foreign State as the addressee of an beneficial disposition and the person who would be legally disadvantaged or risks such because of the disposition, this shall be regarded as consent by the foreign State to subject itself to the said disposition, except for special cases such as those indicated above.

C. From the above, we may conclude that the application in itself clearly manifests the will of Oman to respect and obey the results of unilateral decision-making by the Mayor of Shibuya Ward as the administrative agency governing the application. The approval is a beneficial disposition: it makes it possible to construct buildings as an exception to the requirements under Articles 4(1) and 4(2) of the Ordinance. Oman has furthermore made this application under such circumstances as there exists a dispute with the neighboring residents regarding the application's approval, and nothing presented to the court suggests that the application was made as a matter of international comity and not as a request for adjudication upon the said dispute. Thus, we hold that the approval falls under the heading of a disposition, since Oman is regarded to have given its consent to subject itself to the decision.

D. We must next consider whether Oman has given its consent to be subjected to the building confirmation. Since it is generally the case that the Building Manager of Shibuya Ward will issue a building confirmation once the Mayor of Shibuya Ward has given his approval, the ruling by the Mayor of Shibuya Ward concerning the dispute between Oman and the neighboring residents, for Oman, amounts to a ruling on the dispute by the Building Manager of the Shibuya Ward. The purpose of the application to the Mayor of Shibuya Ward may therefore be regarded to include a request for a ruling by the Building Manager of Shibuya Ward. Oman's will to seek adjudication is even more clearly expressed by its actual submission of a Building Plan Outline to the Building Manager of Shibuya Ward. Since it can be concluded from the above applications that Oman's consent to be subjected to the building confirmation exists, this building confirmation falls under the heading of a disposition.

3. On Issue (C): Whether the Sections of the Petitions Seeking Suspension of the Force of the Approval Possess Benefit of Suit

The suspension of the force of a disposition, as provided in Article 25(2) of the Administrative Case Litigation Law, only suspends the force of the disposition

prospectively into the future, after the decision to suspend is made. Even if the decision is made to suspend the force of the approval prospectively into the future, this will not mean that the building confirmation which was issued according to the said approval will be rendered illegal retroactively, and the object of the claims of the petitioners, which is to avoid material damage by preventing construction of the building, will therefore not be achieved through suspension of the force of the approval. Thus, the sections of the petitions seeking to suspend the force of the approval do not possess benefit of suit.

4. On Issue (D): Whether the Current Case Satisfies the Requirement of "an Urgent Necessity to Avoid Material Damage"

The construction of the building in this case causes damage relating to sunlight access for Petitioner X1, which can be said to be "material damage." Since the completion of construction of the building is scheduled for February 2008, there is an urgent necessity.

5. On Issue (F): Whether the Claims Appear to be Groundless on the Merits

At the present stage, where no substantive deliberation has been held on the merits of the case, it cannot yet be decided whether the petitioners' claims are well grounded. The bare facts of the case admit at least some possibility of the approval being determined illegal. As thorough deliberation has not yet been completed on the merits of the case, we cannot go so far as to say that the petition seeking suspension of the building confirmation falls under the requirement "when the merits of the case appear to be groundless."

6. On Issue (E): Whether the Suspension of the Effect of the Approval and Building Confirmation would Pose a Risk of Causing a Serious Adverse Effect to the Public Welfare

Since the legality of the building confirmation is not yet clear, allowing the effect of the building confirmation to be suspended would not seriously disturb the legal system as it relates to building regulation. Beyond this, no evidence has been presented to suggest that public welfare would be materially affected if the effect of the building confirmation were suspended.

Judge Norihiko Sugihara (presiding)
 Judge Masanori Suzuki
 Judge Takahiko Matsushita