

## Documents

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### **Deprogramming and the Unification Church in Japan: The Toru Goto Decision (2014)**

**ABSTRACT:** After deprogramming, i.e., the practice of kidnapping adult members of new religious movements and keeping them prisoners in secluded locations while trying to “deconvert” them from their beliefs, had been declared illegal in Europe and the United States, it continued in Japan with the tolerance of local authorities and courts of law (it still continues in South Korea). In Japan, where it targeted in particular the Unification Church (later called the Family Federation for World Peace and Unification), the Toru Goto 2014 decision of the Supreme Court played a decisive role in putting an end to the practice. The full text of the decision, which concerns the extraordinary case of a Unification Church believer detained by his family and the deprogrammers for more than twelve years, is published here for the first time in an English translation.

**KEYWORDS:** Unification Church, Family Federation for World Peace and Unification, Deprogramming, Deprogramming in Japan, Toru Goto, Anti-Cult Movement in Japan.

13 November 2014, Statement of Judgement, original copy received on the same date, Clerk 2014 (N) NO. 1143 Appeal Court for Damage Claim Case.

(Original Court / Tokyo District Court House 2011 (W) No. 2796). Final oral proceedings: 21<sup>st</sup> August 2014.

#### *Judgement*

Appellant / Appellee: Toru Goto (hereinafter called “the Appellant”). Attorney for the Appellant: Nobuya Fukumoto.

Appellants / Appellees: Takashi Goto (Toru Goto's brother) (hereinafter called "Appellee Takashi Goto"), Yoko Goto (Takashi Goto's wife) (hereinafter called "Appellee Yoko Goto"), Masako Aoyagi (Toru Goto's sister) (hereinafter called "Appellee Aoyagi").

Attorneys for the above three: Takashi Yamaguchi, Morio Ogiue.

Appellant / Appellee: Takashi Miyamura (hereinafter called "Appellee Miyamura").

Attorneys: Hiroshi Yamaguchi, Sou Kimura.

Appellee: Yasutomo Matsunaga (hereinafter called "Appellee Matsunaga").

Attorneys: Shuji Nakamura, Reiko Higashi.

### *Main Text*

1. Based on the appeal filed by the Appellant, the original judgement is amended as follows:

(1) Appellee Takashi Goto, Appellee Yoko Goto, Appellee Aoyagi, Appellee Miyamura, and Appellee Matsunaga shall jointly and severally pay the Appellant 4,400,000 yen and the money accruing therefrom at an annual interest rate of 5 % during a period starting from 10 February 2008 until the payment is completed.

(2) Appellee Takashi Goto, Appellee Yoko Goto, Appellee Aoyagi, and Appellee Miyamura shall jointly and severally pay the Appellant additional 6,600,000 yen and the money accruing therefrom at an annual interest rate of 5% during a period starting from 10 February 2008 until the payment is completed.

(3) Appellee Takashi Goto, Appellee Yoko Goto, and Appellee Aoyagi shall jointly and severally pay the Appellant additional 11,000,000 yen and the money accruing therefrom at an annual interest rate of 5% during a period starting from 10 February 2008 until the payment is completed.

(4) All other claims of the Appellant against the Appellee Corporation, as well as all other claims against Appellee Takashi Goto, Appellee Yoko Goto, Appellee

Aoyagi, Appellee Miyamura, and Appellee Matsunaga shall be dismissed.

2. The appeals filed by Appellee Takashi Goto, Appellee Yoko Goto, Appellee Aoyagi, and Appellee Miyamura shall be all dismissed.

3. In terms of the litigation expenses, the portion incurred between the Appellant and Appellee Takashi Goto, Appellee Yoko Goto and Appellee Aoyagi in the first and second trials shall be divided into two portions, one of which shall be borne by the Appellant and the other portion shall be borne by Appellee Takashi Goto, Appellee Yoko Goto and Appellee Aoyagi. The portion arising between the Appellant and Appellee Miyamura shall be divided into four parts, one of which shall be borne by Appellee Miyamura, and the other shall be borne by the Appellant. The portion arising between the Appellant and Appellee Matsunaga shall be divided into ten portions, one of which shall be borne by Appellee Matsunaga and the rest shall be borne by the Appellant. The portion arising between the Appellant and Appellee Corporation shall be borne by the Appellant.

4. This judgment may be provisionally enforced in Part 1 (1) to (3) only.

### *Facts and Reasons*

#### *Part 1: Judgements Requested by the Parties*

##### 1. Appellant

(Hereinafter Appellee Takashi Goto, Appellee Yoko Goto, Appellee Masako Aoyagi are referred to as “Appellee Takashi Goto et al.”; and Appellee Takashi Goto et al., Appellee Miyamura, Appellee Matsunaga and Appellee Corporation are collectively referred to as “the Appellees”):

(1) The original judgements shall be amended as follows.

(2) The Appellees shall jointly and severally pay the Appellant a sum of 201,610,000 yen and money accruing therefrom at an annual interest rate of 5 % during a period starting from 10 February 2008 up to a date when the payment

will be completed.

(3) Same contents as the Clause 2 of the Main Text.

(4) The litigation fees for the first and the second trials shall be borne by the Appellees.

(5) Declaration of provisional enforcement.

## 2. Appellee Takashi Goto et al.:

(1) All of the portions of the original judgment where the Appellee Takashi Goto et al. lost the case shall be revoked.

(2) All of the Appellant's claims regarding the aforementioned portions shall be dismissed.

(3) All the appeals in this case shall be dismissed.

(4) Litigation fees for the first and the second trials shall be borne by the Appellant.

## 3. Appellee Miyamura:

(1) The portion of the judgment in which the Appellee Miyamura had lost shall be revoked.

(2) The Appellant's claims regarding the aforementioned portions shall be dismissed.

(3) Appeal of the Appellant in this case shall be dismissed.

(4) Litigation fee for the first and the second trials shall be borne by the Appellant.

4. Appellee Matsunaga and Appellee Corporation: All the appeals in this case shall be dismissed.

## *Part 2: Summary of Facts*

1. In this case, the Appellant (DOB 2 Nov 1963), who is a follower of the Holy

Spirit Association for the Unification of World Christianity [Unification Church], claims to have been abducted by Appellee Takashi Goto (brother), Appellee Yoko Goto (sister-in-law), Appellee Aoyagi (sister), and Appellee Matsunaga, who is a pastor of the Niitsu Evangelical Christian Church (hereinafter referred to as “Niitsu Church”) under the Appellee Corporation’s umbrella, as well as Appellee Miyamura, a professional deprogrammer who specializes in deprogramming Unification Church members, in collusion between themselves; and claims to have been confined to the Palace Mansion Tamon in Niigata, and the Ogikubo Flower Home from 11 September 1995 to 10 February 2008, to be forced to abandon his faith: and that he suffered injuries such as general muscle weakness and disuse muscle atrophy. He requests the Appellees to jointly and severally pay a sum of 201,618,527 yen as well as interests at the rate of 5% per year from the 10th of the month until the payment is completed, as prescribed by the Civil Code, based on the Right to Claim Damages Due to Tort under Articles 709 and 715, paragraph 1, of the Civil Code.

The original judgement ruled that: (1) Appellees Takashi Goto et al. had unfairly restrained the Appellant mentally and physically since September 1995 to 10 February 2008, and ordered the Appellees Takashi Goto et al. to pay 339,110 yen as medical fees, 4,000,000 yen for damages and 500,000 yen for legal counsel fees, totaling 4,839,110 yen, to the Appellant; (2) Appellee Miyamura had tried to force the Appellant to leave the Unification Church from January to September 1998, and the court ordered him to pay 967,822 yen which is 20% of the above damage for compensation jointly and severally with Appellees Takashi Goto et al.; and (3) the court did not find legal liability of Appellee Matsunaga and Appellee Corporation.

In response to this, the Appellant, Appellee Takashi Goto et al., and Appellee Miyamura filed their respective appeals dissatisfied with the portions of the case they had lost.

2. Other than amending the original judgment as follows, the underlying facts, issues, and claims of the parties are as described in Sections 2 and 3 of Part 2 under “Facts and Reasons” of the original judgment, and are therefore quoted.

*(Amendments of the Original Judgement)*

- (1) Original judgement, page 3, 25<sup>th</sup> line: Change “plaintiff” to “the Appellant (DOB 2<sup>nd</sup> of November 1963).”
- (2) Original judgement, page 5, from the 13<sup>th</sup> line to the end of the 14<sup>th</sup> line: Change “Defendant Takashi Goto” to “Appellee Takashi Goto et al.”
- (3) Original judgement, page 5, 17<sup>th</sup> line: Change “Room 803” to “Room 607.”
- (4) Original judgement, page 15, 1<sup>st</sup> line: Change “the authority” to “Tokyo District Court.”
- (5) Original judgement, page 27, 9<sup>th</sup> line: Add the following: “(4) The issue concerning Statute of Limitations Defense

i. Appellee Takashi Goto et al.

Even if Appellee Takashi Goto et al. had liability for the unlawful acts, Appellee Takashi Goto et al. had told the Appellant to leave the Ogikubo Flower Home and that he was free to do anything after the Appellant had finished his third hunger strike in 2006; the Appellant could have freely left the Ogikubo Flower Home at that time but did not do so at his free will, so the unlawful acts committed by Appellee Takashi Goto et al. should be deemed to have ended then.

The Appellant could have left the Ogikubo Flower Home at least at the end of December 2006, so the statute of limitations for damage claims should be counted from the time period. By the time the suit was filed on the 31<sup>st</sup> of January 2011, three years had already gone by. Appellee Takashi Goto et al. claim the statute of limitations.

ii. Appellant

Although Appellee Takashi Goto et al. once made a statement to the Appellant, after he had finished the third hunger strike, to the effect that he could leave, they did not necessarily stop the surveillance nor unlock the room.

Moreover, the Appellant was malnourished at the time, had no money in his possession, had been confined for many years, and had no other place to live. Appellee Takashi Goto et al. never provided the Appellant any funds necessary to move to another place. Based on this, it cannot be ruled that Appellee Takashi

Goto et al. had released the Appellant around 2006.”

*Part 3. Judgement of the Court*

1-The court rules that the Appellant’s claims against Appellee Takashi Goto et al. have its merits with the limit of 22,000,000 yen and related delay damages; the claims against Appellee Miyamura are founded within the limit of 11,000,000 yen and the delay damages; the claims against Appellee Matsunaga are founded within the limit of 4,400,000 yen and delay damages; and that the claims against Appellee Corporation are unfounded. The reasons are described in the following items.

2-The facts found in the evidences and the entire pleadings, are same as stated in Part 3-1 of “The Facts & Reasons” of the original judgement, other than the following amendments:

*(Amendments of the original judgement)*

[OMITTED]

3-Objecting to this, the Appellant as well as Appellee Takashi Goto et al. and Appellee Miyamura claimed that the facts held in Section 2 (quotations of the original judgment after amendment) concerning the movements and behaviors of the parties and other persons, the situation at Palace Mansion Tamon, Ogikubo Place, and Ogikubo Flower Home, etc. in the original judgement (hereinafter referred to as “the stated facts”) were incorrect, and each submitted additional evidences to this court.

However, the main point of contention in this case is that during the period of about 12 years and 5 months, from 11 September 1995 to 10 February 2008, except for the occasions of moving from his parents’ house to Palace Mansion Tamon, from Palace Mansion Tamon to Ogikubo Place, and from Ogikubo Place to Ogikubo Flower Home, the Appellant did not go out of these places at all, did not contact the outside world using telephone or other means of communication, and regardless of whether or not it should be evaluated as confinement under the Criminal Law, the main issue is whether the freedom of movement was forcibly

restricted against the will of the Appellant, as the Appellant claims, or whether the stay was based on the Appellant's voluntary will, as the Appellees claim; and there is no claim from the Appellees for the acts being based on justifiable causes for unlawful acts, such as that there was a clear and present danger to the Appellant of committing an illegal act such as a criminal act, and that it was necessary to avoid it; despite that, the Appellees compelled the Appellant to stay in the upper room against the Appellant's will. Moreover, both the Appellant and Appellee Takashi Goto et al. were already in the midst of a battle over the deprogramming of the Unification Church members even before the deprogramming trying to persuade the Appellant to withdraw from the Unification Church started on 11 September 1995, which is the subject of this case. The Appellee Takashi Goto himself had a history of leaving the Unification Church due to deprogramming organized by his deceased father and others, and the Appellant had also experienced a first attempt to deprogram him before this case. Both parties were well aware of the various policies and measures that could be taken to compel devotees to withdraw from the Church, and they continued to deal with each other through various tactics. It is not appropriate to discuss the true meaning and propriety of individual facts by taking up each by its own; however, both parties have already submitted claims and evidences to sufficient extent concerning the past circumstances, and there is no need to expand the scope of claims and evidences. In any case, we will examine below both parties' claims regarding whether or not the act was confinement, taking the above into account.

Although Appellee Miyamura claimed that it is essential to recognize the facts concerning the actual state of activities of the Unification Church in more detail in determining whether or not the tort liability exists, as Article 20, Paragraph 1 of the Constitution of Japan stipulates that freedom of religion is guaranteed to all persons whatever the tenets of a religion, as long as it does not directly infringe the rights and freedoms of other people or other organizations externally, nor cause harm, freedom from interference from others is guaranteed to any religion. If the activities of an organization illegally infringe on the rights of other people or other organizations or cause harm, the court may make certain legal judgments about external activities, in accordance with the provisions of laws and regulations regulating such unlawful acts. Even then, it is not the intention of the Constitution of Japan to judge the propriety of the content of the doctrines itself of the religious organization. Therefore, if the activities of the Unification Church violate other laws and regulations of Japan and are unacceptable, the propriety of



such acts should be determined separately in civil and criminal court proceedings, and should be considered separately from the issue of freedom of religion. In this case, the issue is whether it was unlawful to urge the Appellant to leave the Unification Church and have the Appellant, who is a believer, confined in a certain facility for that purpose. Since we are not seeking liability concerning the propriety of the activities of the Unification Church against the victims who claim that they have suffered damages due to the illegal activities of the Unification Church, it should suffice to review the facts concerning the propriety of the activities of the Unification Church to the extent necessary to consider the appropriateness of the above-mentioned deprogramming issue. Moreover, Appellee Miyamura premised that the act of Appellee Takashi Goto et al. was physical restraint against the Appellant's will, and that it was confinement, and is not claiming that there were specific justifiable causes for illegality. Therefore, there is no need to add facts concerning the actual state of the activities of the Unification Church in addition to the facts identified above.

4-Whether or not torts were committed against the Appellant by Appellee Takashi Goto et al.

4.1-Concerning the transportation to Palace Mansion Tamon on 11 September 1995:

4.1.1-According to the stated facts, regardless of whether Appellees Takashi Goto et al. abducted or "arrested" the Appellant, the Appellant was only told by Appellees Takashi Goto et al. that they would move from the late father's home for the purpose of discussions, without the specific destination. While non-family members waited, the Appellant was instructed to get in a station wagon, which could hold more passengers than a sedan. When the Appellant got into the station wagon, he was forced to sit in the center of the back seat sandwiched between others. During the drive to Niigata, the car did not stop on the way to take a break, and the Appellant was told to use a portable toilet in the station wagon for urination and defecation, with multiple passengers onboard, and had no choice but to do so. Therefore, at least on the way to Niigata, it is reasonable to assume that the Appellant was placed in a situation where it was impossible or extremely difficult for him to get out of the station wagon, and that his freedom of movement was restricted. Even if, on the way to Niigata, the Appellant did not show strong

resistance when the car temporarily stopped for refueling, unlike when the Appellee Takashi Goto himself once did when he was put in a station wagon as part of the effort to deprogram him, it is reasonable to consider that this was part of the tactics that had been cultivated through the battles between the deprogrammers and the Unification Church members over their deprogramming activities, and it is natural to consider that the reason the Appellant did not show strong resistance when he was put in the station wagon, was rather due to the Appellant waiting for an opportunity to escape. Therefore, it cannot be deemed that the Appellant was willing to cooperate with the deprogramming orchestrated by the Appellee Takashi Goto et al. of his own free will, simply because the Appellant did not show strong resistance.

4.1.2-Moreover, as mentioned above, Appellee Takashi Goto et al. prepared a portable toilet in the station wagon in light of the fact that there were cases where Unification Church followers ran away after stating that they want to go to bathroom, during previous deprogramming cases. It is therefore presumed that a portable toilet was prepared in advance to prevent the Appellant from getting off the vehicle, as it was considered necessary to restrict the free movement of such individuals to a certain extent for the purpose of the deprogramming. In this case, after the Appellant got into the station wagon driving toward Niigata, and after he requested that the vehicle stop for a bathroom break, Appellee Takashi Goto et al. instead requested the Appellant to use the portable toilet prepared in the car. It is reasonable to rule that Appellee Takashi Goto et al. had begun to unlawfully restrict the Appellant's freedom of movement at this point, since the restrictions on the Appellant's freedom of movement, as originally planned, have become apparent then.

4.2-Concerning the stay at Palace Mansion Tamon from 11 September 1995 to 22 June 1997:

4.2.1-According to the stated findings, the Appellant prepared a notice of withdrawal addressed to the Unification Church around December 1995, shortly after he had moved to Palace Mansion Tamon. Around the same time, the Appellant also wrote a note about the circumstances that led to his decision to leave the group. If we looked only at these facts, it would be possible to conclude that the Appellant indicated his intention to withdraw from the Unification

Church in response to the persuasion of Appellee Takashi Goto et al. and Appellee Matsunaga, and it would be possible to infer that the Appellant's stay at Palace Mansion Tamon was based on the Appellant's free will. However, when the Appellant first moved to Palace Mansion Tamon, Appellee Takashi Goto et al., as well as the Appellant's parents and uncle also stayed at the same apartment. Not only was the Appellant placed in a room from which he could not exit through the front door without passing through the room where his family members stayed, it would also have been difficult for the Appellant to easily jump out of the window to escape. It is further recognized that it was impossible for the Appellant to contact outsiders. Therefore, it is clear that the Appellant's family and Appellees Takashi Goto et al. acted as supervisors to restrict the Appellant's freedom to go out and communicate with the outside world. Therefore, it can be inferred that the Appellant's freedom of movement was restricted.

4.2.2-Moreover, in this case, Appellee Takashi Goto et al. and Appellee Matsunaga did not release the Appellant even though the Appellant had signed various documents stating that the Appellant would withdraw from the Unification Church. As a result, it is presumed that the Appellant's stay at Palace Mansion Tamon until that point in time was not based on the Appellant's voluntary will and he was sequestered by Appellees Takashi Goto et al. and Appellee Miyamura. This is because the Appellee Takashi Goto et al. and Appellee Miyamura were well aware that, in the past series of offensive and defensive battles over deprogramming, there were cases where the members escaped and returned to the Unification Church facilities as soon as they were released after falsely pretending they had decided to leave the church in response to the deprogramming. It is believed that the Appellees did not release the Appellant, even after the above documents were signed, precisely because the Appellees had the suspicion that he signed the above documents to have an opportunity to escape, as the results of observing the Appellant at Palace Mansion Tamon. If that is the case, it is easy to presume that it would be even more so before the Appellant showed his intention to withdraw from the Unification Church, that the Appellees would have considered it necessary to sequester him even if it meant restricting the freedom of action of the Appellant.

4.2.3-In addition, even if there would be some room to believe that the reason why the Appellant did not go out of the Palace Mansion Tamon nor contact the outside world was because the Appellant simply did not want to do so, and not because Appellee Takashi Goto et al. forced the Appellant not to, if the Appellant planned to stay at the Palace Mansion Tamon for a long time and voluntarily, he would have had to submit a notification of an address change in his resident card, pay taxes and public dues, such as national pension and national health insurance, and vote in national or local elections. There should have been various opportunities to go out of the place to take necessary measures for social or civic life, such as exercising rights or renewing a driver's license. It would have also been necessary to pick up personal belongings that he had used in his life up to that point. Appellee Takashi Goto and the Appellant's deceased father visited the Unification Church facilities in order to pick up the Appellant's belongings, and did not have the Appellant accompany them, where in the normal circumstances it would have been more effective for the Appellant to accompany the Appellees in order to sort the necessary items. This also suggests that Appellee Takashi Goto et al. were concerned that if the Appellant had accompanied the Appellees, the Appellant would have returned to the Unification Church after arriving at its facility. This is because the Appellant had previously experienced a deprogramming attempt around 1987, and around late November of the same year, the Appellant returned from Ogikubo Eiko Church to the Unification Church home, telling others that he was going to the bathroom. Therefore, Appellee Takashi Goto et al. were fully aware that if the Appellant was not constantly monitored, there was a possibility that the Appellee would flee to return to the Unification Church.

Appellee Takashi Goto et al. claim that the Appellant refused and did not go out even when the Appellant had been advised to go out for health care. However, there is a clear contradiction between the claim that Appellee Takashi Goto et al. told the Appellant he was free to go out, and the fact that they were afraid that the Appellant would return to the Unification Church facilities if the Appellant was not constantly monitored as described above, and therefore, it is difficult to accept such a claim. As a side note, if the Appellant had stayed voluntarily and freely, he would have voluntarily returned to Palace Mansion Tamon even if he went out for a walk for a change of pace or shopping. As such, there should have been no reason to restrict the Appellant's movement. However, as per the written statement prepared by the Appellant (Exhibit A9), Appellee Takashi Goto et al.

did not allow the Appellant to go out of the residence. Therefore, it is reasonable to rule that Appellee Takashi Goto et al. restricted the Appellant's freedom and confined him in the Palace Mansion Tamon.

4.2.4-Therefore, although it is acknowledged that the Appellant's stay at the Palace Mansion Tamon was in accordance with the will of the Appellant's deceased father, and that it was commenced based on the parental and brotherly love among the family, the Appellant was an adult male born on 2 November 1963, who was already 31 years old on 11 September 1995, and who did not need others' care or assistance in his daily life. It is a matter of course that even his parents or brother must fully respect the Appellant as an individual with a separate and independent personality. Forcing the Appellant to withdraw from the Unification Church simply because the content of the Appellant's beliefs differs from that of his parents and siblings exceeds the socially permissible scope of voluntary persuasion by his parents and siblings, and is unlawful, and from an objective point of view, it is unavoidable to rule that such acts amount to confinement.

4.3-Concerning the transportation to Ogikubo Place on 22 June 1997:

According to the stated findings, on 22 June 1997, when the Appellant left the Palace Mansion Tamon for his deceased father's house, he was never told that he was going to move to Ogikubo Place. The Appellant was put in a station wagon with multiple people including non-family members (with three adult men), and did not have personal items such as a driver's license, wallet, or cash. It is assumed that the situation was the same when the Appellant headed for Ogikubo Place after seeing the body of his deceased father at the late father's place. Thus, it is deemed that the Appellant's freedom of movement was restricted at Palace Mansion Tamon in Niigata, and shortly after he returned to his parents' home for a short time after the death of his father, the Appellant was taken to Ogikubo Place, his next residence, at the direction of Appellee Takashi Goto et al., without being asked for the Appellant's consent, and without his consent as a matter of course. Accordingly, it is reasonable to rule that the Appellant's freedom of movement was continuously restricted by Appellee Takashi Goto et al. without the Appellant's consent and that the illegality continued even at this point.

4.4-Concerning the stay at Ogikubo Place from 22 June 1997 to December 1997:

4.4.1-According to the stated findings, the structure of Ogikubo Place was such that to reach the exit from the room where the Appellant lived, it was necessary to pass through the room used by Appellees Takashi Goto et al. as well as the Appellant's mother. A family member was always staying in the room, and not only was each action by the Appellant checked, but it appears to have been difficult for the Appellant to easily jump out of the window and escape. The Appellant was unable to use the telephone and other methods to contact the outside world, same as when he was staying at Palace Mansion Tamon. Moreover, the Appellant's wallet and cash were left behind at Palace Mansion Tamon, and there is no sufficient evidence that these personal belongings were handed over to the Appellant. Further, the Appellant did not go out for the funeral of his deceased father, and Appellee Yoko Goto and Appellee Aoyagi also did not attend the funeral and stayed at Ogikubo Place. Considering the above matters on the structure of the room as well as living conditions, it can be ruled that the Appellant's movement was unlawfully restricted, since his movement was constantly monitored by his family, and it was virtually impossible or extremely difficult for him to go out or leave the Ogikubo Place.

4.4.2-Although Appellee Takashi Goto et al. claim that the above measures were unavoidable to prevent the Unification Church officials from knowing the whereabouts of the Appellant who had moved from Niigata to Tokyo and trying to recapture the Appellant, the Appellant was already a 33-year-old adult male on 22 June 1997, and his physical condition and ability to make decisions did not require the care or assistance of others, and therefore even if an official of the Unification Church requested a meeting with the Appellant and, as a result, the Appellant chose to return to the Unification Church, such a decision of the Appellant should have been fully respected, and it would be unjust even for brothers and relatives to interfere with it. Moreover, if the Appellant had voluntarily wished to continue his stay at Ogikubo Place and had decided not to return to the Unification Church, it should have been unnecessary to restrict the Appellant's outings and prevent him from attending the funeral of his deceased father. Even if the Unification Church officials had tried to take the Appellant to the Unification Church facilities by some kind of coercive means, it would not

have been difficult to deal with such occurrences, by asking for assistance from the people in the neighborhood who frequently visited Ogikubo Place to urge the Appellant to leave the Unification Church, or by reporting to the police if necessary. Nevertheless, the fact that Appellee Takashi Goto et al. continued to monitor the Appellant as above indicates that they were concerned that the Appellant would run away if they did not monitor him, which suggests that the Appellant's stay at Ogikubo Place was not based on the Appellant's free will, and that Appellee Takashi Goto et al. were fully aware of this.

4.4.3-Therefore, it is natural to consider that the main purpose of the Appellant's stay at Ogikubo Place was to restrict the Appellant's freedom of movement, and it is reasonable to rule that the unlawful restrictions of the Appellant's freedom of movement continued at this location also.

4.5-Concerning the transportation to Ogikubo Flower Home around December 1997:

According to the stated findings, when the Appellant left Ogikubo Place to go to Ogikubo Flower Home around December 1997, there were multiple individuals present including three acquaintances of Appellee Takashi Goto, in addition to the Appellant's family. It is also held that the Appellant did not have a wallet, cash, and so on, in the same manner as when he moved to Ogikubo Place. Therefore, it is reasonable to rule that such unlawful restriction of the Appellant's freedom of movement continued in this trip also.

4.6-Concerning the stay at Ogikubo Flower Home from around December 1997 to 10 February 2008:

4.6.1-Furthermore, when the Appellant moved to Ogikubo Flower Home around December 1997, the living conditions remained the same as at Palace Mansion Tamon and Ogikubo Place. Even at this Ogikubo Flower Home, the Appellant's family always stayed outside the Appellant's room, and the room arrangements were such that in order for the Appellant to access the exit, it was necessary to pass through the room used by Appellee Takashi Goto and his mother. It appears it was difficult for the Appellant to easily jump off and escape from the Ogikubo Flower Home. Under these circumstances, the Appellant again did not go out at

all nor did he contact the outside world. Moreover, during this time, after the Appellant confessed that he had just pretended to abandon his faith, the Appellant was held down while trying to leave the Ogikubo Flower Home. It is believed that he was expressing his dissatisfaction with the current state of de facto confinement, by going into a hunger strike respectively in 2004, 2005, and 2006. Taking these facts into consideration, it is deemed that the Appellant was prevented from freely going out or leaving the Ogikubo Flower Home by Appellee Takashi Goto et al., and was constrained in his freedom of movement. This is in contrast to the circumstances where Appellant's mother who lived at the Ogikubo Flower Home went to hospitals for internal medicine, orthopedics, ophthalmology, and where Appellee Aoyagi also regularly went to hospitals and sports clubs (Exhibit A.i.1). Under these circumstances, even if there were occasions for a third party to enter the Ogikubo Flower Home for facility inspections or other reasons, and even if the Appellant did not then ask the third party for assistance, nor attempt to leave the Ogikubo Flower Home by means of direct physical force against Appellee Aoyagi and his mother, who have a physical disparity compared to the Appellant, this was because the Appellant was well aware that he would be blocked if he simply tried to escape, based on the Appellant's previous experience and the fact that there were people in their neighborhood who were involved in the deprogramming activity, and that on the contrary it would result in the opposite effect where he would be more strictly monitored. Therefore, it is ruled that this was not due to the Appellant's voluntary will to stay at the Ogikubo Flower Home.

4.6.2-Concerning the hunger strike mentioned above, Appellee Takashi Goto et al. have claimed that the Appellant would usually write a memo if the Appellant wanted anything, such as a notebook, a ballpoint pen, a lead of a mechanical pencil, a red pencil, a blue pencil, etc., which he would hand to his mother, and the requested item would then be given to the Appellant by Appellee Aoyagi, but that around April 2005, the Appellant's request for Korean texts was rejected by his mother, Appellee Yoko Goto, and Appellee Aoyagi, and thus the Appellant started his second hunger strike in anger. Further, they stated that around April 2006 the Appellant asked his mother several times for a notebook, but was refused by Appellee Masako Aoyagi, and that this was the reason for his hunger strike for the third time. The written statement (Exhibit B.i.47) prepared by Appellee Aoyagi generally acknowledges these facts. In the first place, such books



and notebooks are not expensive items nor special items, but generally can be easily obtained at a reasonable price. If the Appellant had freedom of movement, it would have been easy to go out and visit a nearby stationery store, bookstore, and purchase them. The above shows that the Appellant was placed in a situation where he had no choice but to ask his mother and other family members to obtain books and notebooks, and that this was also refused. This proves that the Appellee's freedom of movement was constrained significantly by Appellee Takashi Goto et al. at the Ogikubo Flower Home.

4.6.3-According to the Appellant's statement, after the aforementioned third hunger strike, Appellee Aoyagi prepared and provided to the Appellant liquid food for about seventy days, and thereafter she continued to serve meals that did not have the calories required by an ordinary adult male of similar height. There is no evidence to support the claim that Appellee Aoyagi had sufficient knowledge of nutrition, nor that the meals provided to the Appellant were suitable for his physical condition, based on professional medical or nutritional knowledge. Moreover, Appellee Takashi Goto et al. have never had the Appellant, who was continued or had just finished his hunger strike, undergo a medical examination by a doctor. Even though the Appellant had been effectively confined even prior to that, the Appellees had never worried about the Appellant's physical condition and never had him undergo a medical examination by a doctor. Due to such series of actions by the Appellees, it was found that when the Appellant was released from the Ogikubo Flower Home on 10 February 2008, the Appellant, who was 182 cm tall and weighed about 70 kg previously, had his weight reduced down to about 50 kg at most, and he was diagnosed with general muscle weakness and muscular atrophy. These circumstances indicate that Appellee Takashi Goto et al. did not take full consideration of the Appellant's physical condition in restricting the freedom of movement of the Appellant, which resulted in damage to the Appellant's health. Therefore, it is reasonable to rule that, in the midst of continued unlawful restrictions on the Appellant's freedom of movement and prolonged confinement, the care and consideration of the Appellant's physical condition were not sufficient, and that these acts were highly unlawful, and connected with the stay at the Ogikubo Flower Home.

4.6.4-Appellee Takashi Goto et al. claimed that they had repeatedly told the Appellant to leave the Ogikubo Flower Home since around 1998, however the Appellant simply refused to leave. Indeed, the Appellant acknowledges that Appellee Takashi Goto et al. made such remarks to the Appellant at least after the third hunger strike in April 2006, and that when the Appellant finally left the Ogikubo Flower Home on 10 February 2008, Appellee Takashi Goto and his mother asked the Appellant to leave, and that when the Appellant was not going to leave Appellee Takashi Goto et al. pushed the Appellant out of the Ogikubo Flower Home. However, it was found that the Appellant was not given any personal belongings at that time, and that the Appellant was forced to leave the Ogikubo Flower Home without any money in his possession and without any outdoor clothing. In the first place, the Appellant had not gone out at all for a long period of about twelve years and five months, and had been confined in a small room, since the time the Appellant's freedom of movement was restricted on 11 September 1995, and his ability to adapt to social life had been markedly diminished. Nevertheless, Appellee Takashi Goto et al. simply kicked the Appellant out without giving the Appellant any money and without arranging a new residence for him. Therefore, even if Appellee Takashi Goto et al. had requested the Appellant to leave the Ogikubo Flower Home several times previously, it can be inferred that he was simply asked to leave without any money and without taking any measures to secure food, clothing, and shelter for the time being, similar to the above. Such demands would have only caused trouble for the Appellant, who had been restricted in his freedom for a long period of time, had been cut off from means of livelihood, and had no immediate place to go, and it is understandable that the Appellant was unable to leave the Ogikubo Flower Home.

Ultimately, the actions of Appellee Takashi Goto et al., who did not give him any money, did not offer a place where to live, and simply told him to leave, are not found to have been made in a sincere attempt to restore the Appellant's freedom of action. It is believed that this was done with the idea that if he was in trouble, he would come back. Therefore, even if the Appellant did not comply to the request immediately, it would not be inconsistent at all with the fact that the Appellant's freedom of movement continued to be unlawfully restricted.

In addition, Appellee Takashi Goto et al. claimed that the Appellant, as evidenced in the documents submitted by the Appellant (Exhibit A 9, 57-3, etc.), had

engaged in daily indoor exercise and therefore possessed sufficient physical strength when he was asked to leave on 10 February 2009. In general, it is difficult to find that healthy physical strength can be maintained by indoor exercise only for a long period of time, especially over ten years. Additionally, as per the stated findings, the Appellant was diagnosed with general muscle weakness after leaving the Home and was hospitalized and treated at Isshin Hospital from the 11th of the same month to the 31st of March of the same year. Therefore, the above claims cannot be sustained.

4.7-Considering the stated findings and what has been described so far, Appellee Takashi Goto et al. acted originally based on the strong desire of the deceased father stemming from the parental and brotherly affection, to have the Appellant renounce his faith in the Unification Church and withdraw from the group. Socially, such motives are not totally incomprehensible. Even so, the Appellant was already a 31-year-old adult male at the date of 11 September 1995, when he was abducted to Niigata by Appellee Takashi Goto et al., and no particular problem was found in terms of his mental capacity or physical condition, except for the fact that the Appellant was a member of the Unification Church, which Appellee Takashi Goto et al. made into an issue. Therefore, it must be ruled that the acts against the Appellant by Appellee Takashi Goto et al. that have been described so far were unlawful, since they amounted to the use of tangible force to pressure the Appellant to renounce his faith, and since they were not performed with the Appellant's consent.

Moreover, the confinement of the Appellant by Appellee Takashi Goto et al. was premeditated and continued for a long period of approximately 12 years and 5 months until 10 February 2008, and it is clear that the Appellant suffered serious damage.

In objection to this, Appellee Takashi Goto et al. claimed that the reason why the Appellant's family members (Appellee Takashi Goto et al.) lived with the Appellant was to secure sufficient places and opportunities to discuss with the Appellant, and that this was done in order to give the Appellant, who was under brainwashing, a time to think calmly, and not for the purpose of deprogramming per se. However, the Appellees deliberately took away the Appellant from Tokyo to Palace Mansion Tamon in Niigata City, severely restricting his freedom of movement, and although he returned to Tokyo after his father's death, they took

away personal effects for an abnormally long period of time, and continuously restricted the Appellant's freedom of movement, through the activities of Appellee Miyamura or his associates who have repeatedly and continuously been involved in deprogramming members of the Unification Church, and at places such as Ogikubo Flower Home, which is a facility effectively used for that purpose. There should have been no need to significantly restrict the Appellant's freedom of movement for such a long period of time if it was only for the purpose of making the Appellant think calmly. It is clear that the series of actions by Appellee Takashi Goto et al., found in this case, was done systematically for the purpose of forcing the Appellant to change his view of the Unification Church, admit the error of his faith and the nefarious motivations of the church, and withdraw from the Unification Church. It was found that the Appellant, too, fully understood the above circumstance, and that was why the two sides were in a state of mutual rivalry, which made the situation go on for this long.

In addition, Appellee Takashi Goto et al. claimed that the Appellant stayed at Palace Mansion Tamon, Ogikubo Place, and Ogikubo Flower Home during the above periods because the Appellant followed the doctrine of the Unification Church, which induced him as a "family messiah" to try to convert his family members to his faith, and they submitted additional documentary evidence to support the claim (Exhibit B.i. 48, 49). In this case, Appellee Takashi Goto himself was a former member of the Unification Church, who withdrew from the Unification Church after having been deprogrammed by his late father and Appellee Miyamura. The Appellant, fully aware of this fact, simply tried not to be deprogrammed and "deconverted" from his faith by Appellee Takashi Goto et al. It is clear that it was factually impossible that the Appellant, who had been deprived of everything by Appellee Takashi Goto et al., was in a position to convert Appellee Takashi Goto et al. Moreover, even if the Appellant had such purpose, there was no reason for the Appellant to carry out this purpose without going out for a period of more than ten years and without contacting the outside world at all. Therefore, the above claims of the Appellee Takashi Goto et al. cannot be sustained.

4.8-As mentioned above, it is ruled that the unlawful acts against the Appellant by Appellee Takashi Goto et al. continued until 10 February 2008, and therefore

there is no ground for the Appellees' defense of the statute of limitations on the premise that the tort had ended by the end of December 2006.

5-Concerning whether or not Appellee Matsunaga and Appellee Miyamura committed unlawful acts against the Appellant:

According to the stated facts, Appellee Matsunaga and Appellee Miyamura participated in the preparatory meeting and the inaugural meeting of the National Liaison Council Against the Unification Church in 1987. Appellee Matsunaga took notes there on how to deprogram the followers, such as: "Do not let them go out without the permission of the deprogrammer. They will definitely run away;" or "Shut out their connection with the outside world" (Exhibit A98-3). It can be inferred that Appellee Miyamura would have also heard the same talk. As for Appellee Matsunaga, he created a video around October of the same year for deprogramming purposes, although it is unclear whether the video was actually shown to the Appellant's family who visited him for consultation. In that video, he stated that when deprogramming followers of certain religions it was necessary to cut off the telephone line, to be aware that they might escape by pretending to take a bath or escape through the toilet window, and to pay attention to windows since it was easy to miss them as an escape exit, even if one had locked the front door (Exhibit 101-1 to 3). Concerning Appellee Miyamura, regardless of his position in the Mizukukikai [an anti-Unification-Church organization including former members and parents of members], it can be presumed that he had come across similar stories many times or multiple times while he was involved in the Mizukukikai.

According to the stated findings, the deceased father forced Appellee Takashi Goto to withdraw from the Unification Church around 1987 with the help of Appellee Miyamura and others related to anti-cult organizations. Appellee Miyamura employed Appellee Takashi Goto at [the public relation agency] TAP that he runs, while Appellee Takashi Goto and his parents were part of the Mizukukikai until around the summer of 1995, and then regularly attended Niitsu Church thereafter. After the consultation with Appellee Matsunaga and Appellee Miyamura, preparations were made to deprogram the Appellant and compel him to leave the Unification Church. The Appellant was taken to the Palace Mansion Tamon, where the Appellant's freedom was restricted, and the deprogramming effort began. Appellee Matsunaga went all the way to Palace Mansion Tamon in Niigata and had interviews with the Appellant two or three

times a week from around October of the same year. In addition, not only did Appellee Miyamura participate in providing the place where the Appellant could be detained for a long time, by introducing Ogikubo Flower Home to Appellee Takashi Goto, but Appellee Miyamura urged the Appellant to withdraw from the Unification Church, by pointing out errors in the Unification Church's doctrines during 73 interviews in total with the Appellant at the Ogikubo Flower Home, between around January 1998 and around September 1998.

Accordingly, concerning the unlawful restrictions of the Appellant's freedom movement by Appellee Takashi Goto et al. from 11 September 1995 to 10 February 2008, even if Appellee Matsunaga and Appellee Miyamura did not take the lead in the planning nor direct and supervise it, Appellee Matsunaga, as a Christian pastor, not only played a role in giving moral support to the deprogramming activity by preaching that the teachings of the Unification Church were wrong and that leaving the Unification Church was mandatory from a religious point of view, but at various meetings stated, or heard, that it was necessary to sufficiently watch out for the target believers who tend to run away, as a precaution during the deprogramming. In a sense, this is the same as stating that it was necessary to compel the target believers to leave the church, even if it meant temporarily suppressing their free will and restricting their freedom of movement. Therefore, it can be said that Appellee Matsunaga has instigated restrictions on the freedom of movement of Unification Church members. And even if Appellee Matsunaga tried to avoid being directly involved in the unlawful act, in this case, while being aware that a situation could arise where the Appellant's freedom of movement would be restricted, Appellee Matsunaga did not stop the aforementioned acts when Appellee Takashi Goto et al. took the Appellant out of Tokyo and detained him at the Palace Mansion Tamon in Niigata City for conversion. Moreover, Appellee Matsunaga vigorously tried to deprogram the Appellant on many occasions, after the Appellant was taken from Tokyo to Niigata City and his freedom of movement was effectively restricted at the Palace Mansion Tamon. If so, it is considered that Appellee Matsunaga, with the full understanding that the Appellant's freedom had been restricted, acquiesced to the aforementioned acts of Appellee Takashi Goto et al., encouraged them, and aided Appellee Takashi Goto et al. in restricting the Appellant's freedom and organizing the deprogramming activities.

As for Appellee Miyamura, he was actively involved in the Appellee Takashi

Goto's deprogramming, gave him a job, and actively supported him in all aspects of his day-to-day activities. Also, Appellee Miyamura either provided or was involved in providing the Ogikubo Flower Home where the Appellant was detained, by introducing or having someone else introduce the home. Appellee Takashi Goto et al., would not have been able to forcefully detain the Appellant at the Ogikubo Flower Home for such a long period of time and continue the conversion activities, without the various support of Appellee Miyamura.

Appellee Miyamura himself was of course fully aware of the situation of the Appellant who was effectively confined at the Ogikubo Flower Home, and interviewed the Appellant on a very large number of occasions, to deprogram him and persuade him to leave the Unification Church. Therefore, it is ruled that Appellee Miyamura aided the detention of the Appellant by the Appellee Takashi Goto et al.

In that case, both Appellee Matsunaga and Appellee Miyamura should bear joint and several tort liability, at least partially, for the restrictions on the Appellant's freedom by Appellee Takashi Goto et al.

Although Appellee Matsunaga and Appellee Miyamura claimed that they wanted to avoid being involved in illegal physical restraints of believers, such as those they had come across in the meeting of the National Liaison Council Against the Unification Church and the Mizukukikai, if that was the case, both parties, who were aware of and involved in many cases, could have held interviews in a different place, such as at Niitsu Church or other places in the case of Appellee Matsunaga, or Shinjuku West Church or other places in the case of Appellee Miyamura, where it could have been verified that the deprogramming was based on the Appellant's free will. Nevertheless, as stated above, both Appellee Matsunaga and Appellee Miyamura repeatedly visited the place where the Appellant was effectively confined and they were involved in deprogramming the Appellant.

Further, Appellee Matsunaga and Appellee Miyamura claimed that the interviews with the Appellant was conducted with the Appellant's consent, and that the Appellant's freedom of movement was not unlawfully restricted. However, the Appellant had experienced the deprogramming effort to get him to withdraw from the Unification Church in the past. Also, as a member of the Unification Church, the Appellant was familiar with the specifics of the deprogramming activities of Appellee Matsunaga and Appellee Miyamura and how to deal with them. It is therefore sufficiently understandable that the Appellant accepted the interviews

with Appellee Matsunaga and Appellee Miyamura only because he knew that a refusal to meet with the Appellees would worsen the restraints by Appellee Takashi Goto et al., and that it would become more difficult for him to escape. In fact, as the Appellant stated in his interrogation in the original trial, it was approximately one year and nine months after since he was effectively confined when he was moved from the Palace Mansion Tamon in Niigata to the room in Ogikubo. Therefore, it was not unnatural for the Appellant to feel that he had no choice but to accept the interviews under the circumstances at that time due to the fact that such a long-term detention continued. Therefore, the above claim cannot be sustained.

Additionally, Appellee Matsunaga and Appellee Miyamura claimed that the sessions with both of them were not for the purpose of forcing the Appellant to renounce the religion, but that they merely urged him to think calmly for himself. Nevertheless, the Appellant had been previously been the subject of a deprogramming attempt, but eventually ran away and did not respond to the efforts of the deprogrammers. It can be inferred that both Appellee Matsunaga and Appellee Miyamura, knowing this fact, fully anticipated that the Appellant would not easily be deprogrammed even this time. Therefore, their claim that they did not force the Appellant to give up his faith in the Unification Church cannot be sustained as such. They are of course free to think that the faith in the Unification Church is wrong and that leaving the Church would have been a positive development for the life of the Appellant. However, the acts that restricted the Appellant's freedom in order to deprogram the Appellant and compel him to leave the group, as stated above, infringed on the Appellant's personal freedom and dignity, and must be deemed unlawful. Moreover, as happened in this case, even when the Appellant expressed his intention to withdraw from the Unification Church, the Appellant continued to be detained until it could be confirmed that it was based on his true intentions and was for real. Ultimately, it must be said that not only the actions of Appellees Takashi Goto et al., but also, in aiding them, the actions of Appellee Matsunaga and Appellee Miyamura, were aimed at forcing the Appellant to renounce his faith in the Unification Church.

As described above, both Appellee Matsunaga and Appellee Miyamura have taken actions that should necessarily be considered as abetting and aiding the series of actions of Appellee Takashi Goto et al. to force the Appellant to withdraw from



the Unification Church, and they should be held responsible for joint and several torts along with Appellee Takashi Goto et al. On the other hand, in this case, it is clear that it was the strong desire of the deceased father to have the Appellant withdraw from the Unification Church even by restricting the Appellant's freedom of movement. It was the Appellant's family members, including his parents and Appellee Takashi Goto et al., who had the strongest motives and interests in these actions against the Appellant. It was mainly the family members, including the Appellant's parents and Appellee Takashi Goto et al., who actually carried out such acts and continued to detain the Appellant for a long period of 12 years and 5 months. It is clear that Appellee Matsunaga and Appellee Miyamura and others could not have done such a thing on their own.

Therefore, even though Appellee Matsunaga and Appellee Miyamura should be made jointly and severally responsible for tort liability with Appellee Takashi Goto et al., it is reasonable to differentiate the scope and degree of the liability, as specified below.

6-Concerning whether or not Appellee Corporation committed torts against the Appellant:

Concerning the fact that Appellee Corporation was found not responsible for the employer's responsibility for the torts of Appellee Matsunaga, it is as stated in the original judgment from page 64, line 15, "evidence," to page 64, line 26, "should be said," so this is cited here.

7-Concerning the amount of compensation:

Concerning the torts committed by Appellee Takashi Goto et al.

7.1-Lost profits

Firstly, regarding the Appellant's lost profits, according to the stated findings, the Appellant had led a life exclusively engaged in missionary and educational activities in the congregational organization, after returning to the premises of the Unification Church in 1987. It is understood that he was living a similar life in 1995. There is no evidence to clarify how much the Appellant had earned during

this time, and the probability that the Appellant would have received an income equivalent to the wage census has not been proven. (In this case, it does not appear that the Appellant was personally paying for living expenses while his freedom of movement was restricted. There may be an issue to appropriately consider the burden of living expenses during this period.) Furthermore, the unlawful restriction of the Appellant's freedom of movement by Appellee Takashi Goto et al. lasted for a long period of time from 11 September 1995 to 10 February 2008.

Accordingly, since it is difficult to specifically calculate the lost profits during this period, it is appropriate to calculate the total damages incurred by the Appellant as consolation money.

## 7.2-Medical Expenses

Next, the damage equivalent to medical expenses is 339,110 yen which can be found at the beginning of page 63, 6<sup>th</sup> line of the original judgment (except in the same line, "as mentioned above" should be changed to "according to the stated findings") to the end of the 13<sup>th</sup> line on the same page, so this is cited here.

## 7.3-Consolation money

The Appellant was unable to go out at all for about 12 years and 5 months and was unable to communicate with the outside world, and thus deprived of the opportunity to lead a normal social and civic life as an individual for a long period of time. During this time, he was asked to renounce his faith in the Unification Church and it is presumed that he must have suffered mental anguish. On 10 February 2008, the Appellant left the Ogikubo Flower Home with just the clothes he was wearing and without any money, and he was forced to undergo hospital treatment until 31 March 2008 due to general muscle weakness. Although it is undeniable that these acts were originally initiated by Appellee Takashi Goto et al. based on familial care and affection, as stated above, it is beyond the socially permissible limitation and is unlawful to continue to have detained the Appellant for a long period of time against his will, who is an adult male with normal decision-making capacity, even if done by parents or siblings. Moreover, in this case, the Appellant had previously went through a

deprogramming attempt aimed at compelling him to withdraw from the Unification Church, and this was the second attempt, even though the Appellant had made it clear that he would not respond to such pressure. At the time the deprogramming began, it should have been expected that the Appellant would not easily accept the deprogrammers' efforts, and that led to the decision to move the Appellant from Tokyo to Niigata City. From the very beginning of the trip to Niigata, it must have been clear that it was against the Appellant's will. Therefore, the acts must be deemed illegal.

Although in the findings in this case there is no evidence to prove that the Appellant was directly physically restrained by binding the Appellant's hands and feet or chaining them for example, all of the personal effects of the Appellant had been taken away, making it extremely difficult for the Appellant to go out freely, and the restriction of the Appellant continued for a long period of time, placing the Appellant in a state where he might have even lost the will to resist as a result. The period during which the Appellant was effectively deprived of freedom of movement, including the period of hospitalization, was approximately 151 months from 11 September 1995 to 31 March 2008.

Had the Appellant been hospitalized because of a traffic accident for the same duration, the amount of compensation for hospitalization during that period would be approximately 11,560,000 yen.

On the other hand, reviewing the compensation amount under the Criminal Compensation Law, a system for compensating for damages to those who have been deprived of their liberty as criminal defendants, the amount of compensation shall be paid at a rate of between 1,000 yen and 12,500 yen in consideration of "the type and duration of detention, property loss suffered by the person, loss of benefits that were supposed to be obtained, mental distress and physical injury, and the intentional negligence of the police, prosecutors and judicial authorities, and the presence or absence and all other circumstances" (Article 4 of the same law) Applying this mechanically to 4,536 days, from 11 September 1995 to 10 February 2008, the amount would be between 4,536,000 yen and 56,700,000 yen. While the law applies to all cases of unlawful detention or confinement, there is a difference between cases where there were material restrictions to physical movement and others where these restrictions were not present, and the fact that the restriction originated from family affection should be considered, leading us to apply a daily rate of 4,000 yen, so that the total amount would be 18,144,000

yen.

Therefore, in addition to the aforementioned circumstances of the stated findings, this court finds it difficult to specifically calculate the Appellant's lost profits. On the one hand, the Appellant's mother and Appellee Takashi Goto et al. gave certain consideration to the Appellant's social security by, for example, paying the Appellant's national pension insurance premiums in advance (Exhibit B-42 to 44). In consideration of all the circumstances that appeared in this case, it is reasonable to rule 20 million yen as the Appellant's compensation, including the amount of damage equivalent to the medical expenses in (ii) above.

#### 7.4-Attorney's fee:

In light of the process of the lawsuit and the content of the case, it is reasonable to rule that the amount of attorney's fees, which has a considerable causal relationship with the torts committed by Appellee Takashi Goto et al., is 2,000,000 yen, which makes the total payable amount 22 million yen.

#### 7.5-Concerning the torts committed by Appellee Matsunaga and Appellee Miyamura:

Comprehensively considering the circumstances described in 5 above and all other circumstances that appeared in this case, it is reasonable to rule that both are jointly and severally liable for compensation with Appellee Takashi Goto et al., with the amount of 4.4 million yen for Appellee Matsunaga, which is one-fifth of the above-mentioned 22 million yen, and 11 million yen for Appellee Miyamura, which is half of the above 22 million yen.

#### *Conclusion:*

Accordingly, the court concludes the judgment in accordance with the main text, with the original judgment amended based on the Appellant's appeal, where differing from the above, and with each appeal of Appellant Takashi Goto et al. and Appellee Miyamura's dismissed.

Tokyo High Court House 14<sup>th</sup> Civil Division

Presiding Judge Noriaki Sudo

Judge Hiroyasu Kohama

Judge Norio Shimamura

This is the original of the judgment.

13 November 2014

Tokyo High Court, 14<sup>th</sup> Civil Division

Court Clerk: Miki Machida