

# 精神科強制住院 於民法之適用性

On the Applicability of Compulsory  
Psychiatric Admission in Civil Law

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## 摘要

原告X因罹患躁鬱症、酒精成癮且具自殺念頭，而遭強制住院。嗣後疑因醫師投與過量鋰鹽而致X藥物中毒，X遂以債務不履行、僱用人責任、侵權責任等向指定醫院負責人Y求償。大分地方法院認為，由於指定醫院有義務收容強制住院之患者並提供治療，費用全由都道府縣等負擔，再加上強制住院患者無論自身意願為何，都必須強制被收容在設施中，因此強制住院可被視為一種公權力之行使。地方法院認為X因主治醫師之過失而受損害，因由大分縣承擔國家賠償責任，而Y負起僱用人責任；又強制住院乃公權力之行使而不需X之同意，就此不能認定X與指定醫院間有診療契約；再者

關鍵詞：侵權責任 (tort liability)、國家賠償 (state compensation)、強制住院 (compulsory psychiatric admission)、醫療契約 (medical contract)、醫療過失 (medical negligence)

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X並未充分舉證說明Y違反何種安全顧慮義務；且Y是否有過失侵權，亦無具體事實立證。綜上理由，大分地方法院認判X請求無理由。

Plaintiff X was sent to a psychiatric admission compulsorily, because he suffered from bipolar disorder, alcohol addiction, and suicidal ideation. Subsequently, it was suspected that X was poisoned by a physician overdose of lithium, and X sought compensation from Y, the person in charge of the designated hospital, for non-payment of debt, employment liability, and tort liability. The Oita District Court held that since the designated hospital was obligated to admit and provide treatment to patients who were compulsorily admitted and the costs were borne by the prefectural government, and that compulsorily admitted patients were compulsorily sent to the facility regardless of their wishes, the compulsory admission could be considered an exercise of public authority. The district court held that the Oita Prefecture was responsible for the state compensation for the damages suffered by X due to the negligence of the treating physician, and that Y was responsible for the liability of the employer. On the other hand, since the compulsory admission was an exercise of public authority without X's consent, it could not be concluded that there was a medical contract between X and the designated hospital. Moreover, X didn't sufficiently prove what kind of safety concern obligation Y violated, and there were no concrete facts to prove whether Y had negligently infringed the right. For the reasons above, the Oita District Court held that X's request was unjustified.

## 壹、事實概要

### 一、事件概要

本件原告X因罹患躁鬱症、酒精成癮且有自殺意念，遭大分縣知事依精神保健福祉法第29條第1項強制住院。被告Y為該「指定精神醫療機構」（下稱指定醫院）負責人。X疑因住院中醫師投與過量鋰鹽導致藥物中毒，造成構音障礙及運動障礙等後遺症，故其以診療契約之債務不履行，即該指定醫院違反安全顧慮義務，以及民法第715條使用者責任、民法第709條一般不法行為等主張，求償1,100萬日圓。此外，X亦依國家賠償法於同法院提起另訴。

### 二、法律規定

有關強制住院之醫療行為於法律上的性質，可透過（一）精神保健福祉法中對強制住院的規定和旨趣；（二）強制住院醫療於公權力行使上之適用性等兩方面來理解。精神保健福祉法是國家和都道府縣知事等（地方首長）欲透過改善醫療和教育等設施，實踐對精障者在醫療、保護、健康和福利等各方面的支持，以期能讓精障患者能夠重新融入社會，達成獨立並參與社會經濟活動之目標（第2條）。作為具體措施，都道府縣知事等有義務設置精神科醫院，除非在有設施（指定醫院）可替代的情況下，才能推遲設置此類設施（第19條之7第1項）。精神科醫院須符合厚生勞動大臣規定的標準，且設置者同意成為指定醫院，才能被指定為指定醫院（第19條之8）。若指定醫院不再符合厚生勞動大臣制定的標準，或者被發現其運營方式不適合實現其目的，則可以撤銷指定（第19條之9第1項）。除非在該院已無病床空間的情況，指定醫院都必須收容強制住院患者（第29條第4項）。

關於精神障礙者的住院大致有三，包括基於本人同意的住