

THE LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON EXTERNAL CIVIL RELATIONS

Adopted by Resolution No. 62 of the Standing Committee of the Supreme People's Assembly on September 6, 1995, and amended by Decree No. 251 of the Presidium of the Supreme People's Assembly on December 10, 1998

Chapter 1. Fundamentals

Article 1. The Law of the Democratic People's Republic of Korea on External Civil Relations shall contribute to protecting the rights and interests of the parties concerned in external civil relations, as well as to further developing external economic cooperation and exchange.

Article 2. This law prescribes governing laws in respect of the property and family relations among legal persons and citizens of the DPRK and foreign countries, and further specifies the procedures for resolution of civil disputes.

Article 3. The State shall ensure that the sovereign rights of the parties concerned are respected in external civil relations.

Article 4. The State shall ensure that the principles of equality and mutual benefit are applied in external civil relations.

Article 5. The State shall ensure that the basic principles of the legal system of the DPRK are maintained in external civil relations.

Article 6. If otherwise stipulated in a treaty concluded between the DPRK and any other foreign country in connection with external civil relations, the treaty concerned shall be applicable. Either the international practices or the law of the DPRK shall hold, however, if no provision has been made of the governing law applicable to the external civil relations.

Article 7. The law of domicile shall be applied to parties having more than two nationalities in the ways specified hereunder.

1. Where any one of a party's nationalities is Korean (DPRK), the law of the DPRK shall hold,

2. Where a party's nationalities are all foreign, the law of the country in which the party has a residence shall hold, and

3. Where a party has residence in all countries, the nationalities of which such a party has acquired, or where a party has no residence in any of such countries, the law of the country with which the party concerned is most closely related shall hold.

Article 8. Where a party of no fixed nationality has a residence in a certain country, the law of such country shall be regarded as the law of domicile. But where a party has no residence in any country or has it in several countries, the law of the country in which such a party stays shall be regarded as the law of domicile.

Article 9. The law of domicile of a party who has acquired the nationality of a country whose law differs from one locality to another shall be determined by the relevant law of the said country.

In case of absence of relevant law, however, the law of domicile shall be the one of such a locality as the party concerned belongs to or is most closely related with.

Article 10. The law of the DPRK shall be the law of domicile for any party having residence both in the DPRK and other foreign countries.

Where a party has a residence in more than one foreign country, the law of the country in which the party stays shall be regarded as the law of domicile.

Article 11. For a party having no residence in any country, the law of the country in which such party stays shall be regarded as the law of domicile.

Article 12. Where the content of the law of any foreign country prescribed as the governing law under provisions of this law proves impossible to be confirmed, the law of the country with which the party is most closely related shall hold. In the absence of the foregoing law, the law of the DPRK shall be applicable.

Article 13. Where the rights and obligations of a party as derived from the law of a foreign country, which has been prescribed as the governing law by this law, or those established in accordance with international practices should conflict with the fundamental principles of the DPRK legal system, the law of the DPRK shall hold.

Article 14. Where the law of a foreign country defined as the governing law under this law refers back to the law of the DPRK, the latter shall hold.

Article 15. Any of such legal acts as marriage, divorce, adoption or guardianship, performed prior to the effectiveness of this law by a citizen of the DPRK having a residence in a foreign country, shall remain valid within the territory of the DPRK to the extent that there is no reason to justify any nullification of such act.

Chapter 2. Parties to External Civil Relations

Article 16. The legal persons and citizens of the DPRK and the legal persons and citizens of foreign countries involved in external civil relations shall be the parties to such relations.

Article 17. The capacity of enjoyment of rights for a legal person shall be governed by the law of the country, the nationality of which such legal person has acquired, except for such cases as otherwise defined by the law of the DPRK.

Article 18. The legal capacity of a citizen shall be governed by the law of domicile.

Where the law of the DPRK defines as “major” a citizen of a foreign country who is defined as “minor” under the law of domicile, any act

conducted by such citizen within the territory of the DPRK shall be regarded as valid.

Matters relating to family and inheritance, as well as any act in connection with immovable properties in foreign countries shall preclude application of the foregoing paragraph.

The legal capacity of a citizen of the DPRK having a residence in a foreign country may be governed by the law of the country in which such citizen resides.

Article 19. The conditions for authentication of incompetency or partial competency shall be governed by the law of domicile of the party concerned.

But where a case is not authenticated as incompetency or partial competency under the law of the DPRK, notwithstanding the authentication to that effect under the law of domicile, the said case may not be authenticated as such.

Article 20. The validity of authentication of incompetency and partial competency shall be governed by the law of the country that has authenticated the case in question.

Article 21. The authentication of the missing or the deceased shall be governed by the law of domicile of the party concerned. But where the authentication of the missing and the deceased is related with any legal person or citizen or property of the DPRK, the law of the DPRK shall prevail.

Chapter 3. Property Relations

Article 22. Such property-related rights as possessory rights and ownership shall be governed by the law of the country in which the concerned property lies. But the rights related with such means of transportation as ships and aircraft, as well as with properties in transit shall be governed by the law of the country under whose flag such means of transportation has been travelling, or by the law of the country to which the aforesaid means belong.

Article 23. Rights concerning such intellectual properties as copyright and patent shall be governed by the law of the DPRK, except for such cases as shall be governed by relevant international treaty since relevant provisions have not been made of such rights in the law of the DPRK.

Article 24. Such acts of property dealings as sales, transportation and conclusion of insurance contracts shall be governed by the law of the country mutually agreed upon by the parties concerned, except for such cases as shall be governed by the law of the country of act in which any such property dealing has occurred, if no law has been agreed upon by the parties concerned.

Article 25. Where any contract is to be concluded by means of cable or correspondence between the parties residing in different countries, the law of the country from which a written proposal has been sent out to the other party shall be regarded as the law of the country of act.

In case the place from which such a proposal has been set out proves unknown, the law of the country in which the place of residence or seat of the proposer is located shall be regarded as the law of the country of act.

Article 26. A mode of property dealing shall also be regarded as valid if it comes in compliance with the mode as set out in the law of the country of act.

Article 27. Such property relations as establishment of foreign-invested enterprises in a special economic zone of the DPRK shall be governed by the law of the DPRK.

Article 28. In the absence of any law mutually agreed upon by the party concerned, contracts on sea-rescue operations shall be governed by the following laws:

1. In territorial water, the law of the relevant country,
2. In open seas, the law of the country in which a court of justice having jurisdiction over sea-rescue contracts is located,
3. In case of salvage by several ships of different nationalities, in open seas, the law of the country under whose flag the ship in distress has sailed.

Article 29. General average shall, in the absence of any law mutually agreed upon by the parties concerned, be governed by the law of the country to which the port of destination or the first port of call belongs.

But in case the parties that have been claimed against are of the same nationality, the law of the concerned country may be applied.

Article 30. Any such act as administration of the other party's properties and work free of legally binding obligations, or any unjust enrichment shall be governed by the law of the country in which any act or fact causative thereof has occurred.

Article 31. Any law-breaking act shall be subject to the law of the country where the said act has taken place. The foregoing paragraph shall not be applied in case any act conducted in a foreign country is not prescribed as illegal under the law of the DPRK. In case any such act is prescribed as illegal under the law of the DPRK, it shall be liable only to such an extent as provided for in the aforesaid law.

Article 32. In case of any collision in open seas occurring due to illegal acts of ships of the same nationality, the law of the country under whose flag the ships have been sailing shall hold.

But any collision occurring due to illegal acts of ships of different nationalities shall be governed by the law of the country in which a court of justice having jurisdiction over ship collision is located.

Article 33. Any transfer of obligation shall be governed by the law of the country in which the act of transfer has occurred, or by the law of the country in which the obligor has a residence.

Article 34. Any act of subrogation or cancellation of right of the obligor by the obligee shall be governed jointly by the governing law on obligations and the governing law on the right of an obligor before a third

party.

Chapter 4. Family Relations

Article 35. Conditions of marriage shall be governed by the respective law of domicile of the contracting parties in a marriage.

Notwithstanding that conditions of marriage are endorsed by the law of domicile, a marriage shall not be permitted in case of existence of such obstacles to marriage as previous marital status lasting to date, or consanguinity between the parties concerned, all of which have been authenticated under the law of the DPRK.

The mode of marriage shall be governed by the law of the country in which the parties concerned get married to each other.

Article 36. As regards the validity of a marriage, the law of domicile of the couple concerned shall hold.

Where the nationalities of a couple differ, the law of the country in which such a couple keeps a residence shall hold, except for such case as shall be governed by the law of the country with which such a couple is most closely related if the places of residence of the couple differ.

Article 37. Divorce shall be governed by the law of domicile of the parties concerned.

Where the nationalities of the divorce and divorcee differ, the law of the country in which they both have residence shall hold, whereas the law of the country with which such persons are most closely related shall hold in case their places of residence differ.

The mode of divorce shall also be regarded as valid if it comes in compliance with the mode as set out in the law of the country in which the divorce takes place.

Article 38. Where one of the parties to the divorce is a resident citizen of the DPRK, the law of the DPRK may be applied, notwithstanding Article 37 of this law.

Article 39. Any identification of parenthood shall be governed by the law of domicile of the offspring at the time of his birth, regardless of the marital status of the parents concerned.

Article 40. Adoption and renunciation of adoption shall be governed by the law of domicile of the adoptive parents. In case the nationalities of adoptive

parents differ, the governing law shall be the law of the country in which they both have residence.

Any such conditions as obtainment of consent of the adopted or a third party or of an approval of a State organ, as may be prescribed by the law of domicile of the adopted, shall be met.

A mode of adoption and renunciation of adoption shall also be regarded as valid if it comes in compliance with the mode as set out in the law of the

country in which the parties concerned perform either an adoption or renunciation of adoption.

Article 41. The validity of parenthood shall be governed by the law of domicile of the offspring. Where any one party, either of the parents or the offspring, is a resident citizen of the DPRK, the law of the **DPRK** shall hold.

Article 42. Any guardianship shall be governed by the law of domicile of a ward.

A mode of guardianship shall also be regarded as valid if it comes in compliance with the mode as set out in the law of the country in which the guardian performs his duty.

Article 43. If any citizen of a foreign country residing or staying in the DPRK does not have a guardian, a guardian may be designated in accordance with the law of the DPRK.

Article 44. Any support of a person shall be governed by the law of the country in which the dependent has a residence.

Where a dependent is not granted a right to be supported under the law of the country in which he has a residence, either the law of domicile of such dependent or the law of the DPRK shall be applied.

Article 45. The inheritance of immovable properties shall be governed by the law of the country in which the heritage exists, whereas the inheritance of movable properties shall be governed by the law of domicile of the ancestor.

But the inheritance of movable properties by a citizen of the DPRK having residence in a foreign country shall be governed by the law of the last country in which the ancestor had a residence.

Where a citizen of the DPRK residing in a foreign country does not have an heir, the heritage shall be inherited by a person most closely related with such a citizen.

Article 46. Any testament or cancellation of testament shall be governed by the law of domicile of the testator.

A mode of testament and cancellation of testament shall also be regarded as valid, provided that they come in compliance with the law of the DPRK, the law of the country in which the act of testament has occurred, the law of the country in which the testator has a residence or the law of the country where the immovable property lies.

Article 47. Any adoption, renunciation of adoption, parenthood, guardianship and testament in connection with a citizen of the DPRK having a residence in a foreign country may be governed by the law of the country in which the said person resides.

Chapter 5. Settlement of Disputes

Article 48. Except for such cases as specified separately in this law, the settlement of disputes arising from external civil relations shall be governed by the relevant laws of the DPRK.

Article 49. Jurisdiction of trial and arbitration for any dispute arising from property dealings shall be determined through mutual agreement by the parties concerned.

Article 50. The competent authority of the DPRK shall have jurisdiction over such cases as defined hereunder, provided that the parties concerned have not agreed upon jurisdiction of trial or arbitration in relation with a dispute arising from property dealings:

1. In case the defendant either has the seat or keeps a residence within the territory of the DPRK,

2. In case loss of property giving rise to a dispute has incurred within the territory of the DPRK,

3. In case either the property of the defendant or the object being claimed for exists within the territory of the DPRK, and

4. In case the cause giving rise to a dispute is related with any immovable property registered in the DPRK.

Article 51. Any dispute over the authentication of incompetency, partial competency, the missing or the deceased shall come under jurisdiction of the competent authority of the DPRK in disregard of the nationality and place of residence of the parties concerned, to the extent that such a dispute is related with the legal person, citizen or property existing in the territory of the DPRK.

Article 52. Any dispute over marriage and divorce shall come under jurisdiction of the competent authority of the DPRK, to the extent that the defendant keeps residence in the DPRK at the time of institution of the lawsuit or that the plaintiff is a resident citizen of the DPRK.

Article 53. Any dispute over property between a couple shall come under jurisdiction of the competent authority of the DPRK, provided that the parties concerned have residence in the DPRK, or that either the defendant or the plaintiff has a residence in the DPRK with relevant property existing in the DPRK territory.

Article 54. The competent authority of the DPRK shall have jurisdiction over disputes arising from adoption, renunciation of adoption, parenthood,

guardianship and legal support only when the parties concerned keep their residence in the DPRK.

Article 55. Any dispute over inheritance shall come under jurisdiction of the competent authority of the DPRK, regardless of the nationality of the heir, if the said heir is a citizen of the DPRK, and of the place of his or her residence if the heritage exists in the territory of the DPRK.

Article 56. Any trial or arbitration shall be rejected or suspended, notwithstanding the demand made by any party concerned, in such cases as specified hereunder:

1. In case the jurisdiction over the dispute in question is not

acknowledged under this law,

2. In case any proceedings for trial or arbitration of the dispute in question has already been initiated in any other country,

3. In case the parties concerned have agreed to drop the case, and

4. In case there exists any reason justifiable under the law of the DPRK.

Article 57. The competent authority of the DPRK may request the competent authority of a foreign country to provide it with necessary information in connection with such formalities for dispute settlement as collection of evidence and interrogation of witnesses within the territory of that country, or with endorsement and execution of judgement or decision given by the competent authority of the said country.

Article 58. Any information submitted by a foreign country to the competent authority of the DPRK, such as records of interrogation of witnesses, exhibits, etc., shall be entitled to be used as an evidence in the resolution of a given dispute, subject only to the authentication of the foregoing by a public notary office of the relevant foreign country.

Article 59. Any judgement made by the competent authority of a foreign country shall be acknowledged, subject to an agreement on mutual acknowledgement thereof between the States concerned.

But where a citizen of the DPRK who is a party to the execution of a judgement on family matters given by the competent authority of a foreign country either makes requests for, or agrees to, the execution of such a judgement, it may so be made valid.

Article 60. The judgement and decision made by competent authorities of foreign countries shall not be acknowledged in such cases as prescribed below:

1. In case any such judgement or decision conflicts with the fundamental principles of the legal system of the DPRK,

2. In case any such judgement or decision is connected with a dispute that comes under jurisdiction of the competent authority of the DPRK,

3. In case any such judgement or decision is related with a judgement or decision made by the competent authority of the DPRK,

4. In case any such judgement or decision is identical with that of a third country acknowledged by the DPRK,

5. In case any such judgement or decision has been given in the absence of any party concerned for no warrantable reason, and

6. In case there exists any reason justifiable under the law of the DPRK.

Article 61. The provisions of Article 59 and Article 60 of this law shall also be valid for any execution of judgement or decision given by a competent authority of a foreign country.

Article 62. In case any party within the territory of the DPRK takes interest in the execution of a judgement or decision given by the competent authority of a foreign country, such a party may present a written opinion to the competent authority of the DPRK within 3 months from the confirmation of such judgement or decision.