

THE 1995 PRIVATE INTERNATIONAL LAW OF NORTH KOREA

CHIN KIM*

I. INTRODUCTION

In 1995, the Democratic People's Republic of Korea (DPRK or "North Korea") adopted the code known as *Chosŏn minju-juŭi innin konghwaguk tae'oe minsa kwan'gye bŏp*, translated as "The Law of the Democratic People's Republic of Korea on External Civil Relations."¹ The law consists of sixty-two articles and is organized into five parts: general rules, parties, property matters, family relations, and procedural rules.² The law prescribes *lex causae*³ as "governing the property and family relations between legal persons or citizens of the DPRK and legal persons or citizens of foreign countries and further prescribes the procedures for resolution of civil disputes."⁴

Influenced by legislative measures from the Socialist states,⁵ North Korea enacted its first joint venture law in 1984.⁶ In 1992, North Korea estab-

* Professor of Law Emeritus, California Western School of Law, San Diego, California.

1. The Law of the Democratic People's Republic of Korea on External Civil Relations, Sept. 6, 1995 (adopted by the decision of the Standing Committee of the Supreme People's Assembly) (hereinafter "Korean External Civil Relations Code"). The author's complete English translation of the law is reproduced in the appendix. The author thanks Professor Noriaki Ouchi of Yokohama, Japan, for his assistance in obtaining the Korean text of the law. As to sources and structure of law in North Korea, see CHIN KIM, *KOREAN LAW STUDY GUIDE* 11-14 (2d ed. 1995).

2. See Korean External Civil Relations Code at app. 212-20.

3. *Lex causae* means applicable law or proper law. It is the law governing an issue according to a choice of law rule which originates in the country.

4. Korean External Civil Relations Code art. 2 at app. 212.

5. As to legislative measures on joint ventures taken by Socialist states, see Chin Kim, *North Korean Joint Venture Laws*, 19 CAL. W. INT'L L.J. 175 (1988), particularly footnote 7.

6. See *id.* at 175; Chin Kim, *North Korean and Chinese Joint Equity Venture Laws: A Comparison*, 2 TRANSNAT'L LAW. 531 (1989). The law deals with companies jointly owned by North Koreans and foreign interests. Foreign firms usually sought a North Korean partner to work out a joint investment. A joint venture company is to be incorporated as a lim-

lished the Free Economic and Trade Zone⁷ in its northwest cities of Najin and Sonbong in connection with the Tumen River Regional Development Plan initiated by the United Nations Development Programme (UNDP).⁸ Adoption of the 1995 law is related to the creation of the free-trade zone in anticipation of interaction between North Korean natural and legal persons and foreign citizens and legal persons.

As a result of the increasing transnational human activities within a territorially divided world community, there is a growing need for predictable outcomes in legal disputes involving foreign elements. One of the ways of meeting this need is to disseminate existing conflict rules beyond the national boundaries so that justice and the guarantee of equity in transnational scope can be maximized. For this reason, this article presents some salient features of the 1995 North Korean Private International Law with a complete English translation of the law in the appendix.

II. GENERAL RULES

A. *Nationality, Residence, and Closest Relationship*

*Lex patriae*⁹ is adopted as the principal rule, particularly in the areas of persons¹⁰ and family relations,¹¹ thus necessitating the determination of nationality. The problem of plural nationalities is resolved if one of the nationalities is North Korean. In that situation, North Korea becomes the nationality.¹² If all nationalities are foreign, residence is to become a connecting factor.¹³ If there are plural residences or if there is no residence, the country

ited liability company, with equity values assigned to each party's capital investment. Thus, partners in the limited liability company share profits, losses, and debts in proportion to each party's contribution to the registered capital.

7. As to a provision dealing with the Free Economic and Trade Zone in the law, see Korean External Civil Relations Code art. 27 at app. 215. The establishment of the free economic and trade zone has dual merits. First, the zone may offer psychological comforts to foreign investors by providing a better infrastructure to accommodate foreign capital investment projects and creating an atmosphere that promotes better working relationships. Second, the free trade zone would provide a buffer between the joint venture and the general population and would control foreign business activities.

8. UNDP was established in 1965 by the U.N. General Assembly. See *United Nations Development Programme*, 1 EUROPA WORLD YEAR BOOK 40-42 (Europa Publications Ltd. ed., 1997); Sam Jameson, *Six Nations Act to Create Asian Growth Center*, L.A. TIMES, Feb. 29, 1992, at A8; Jeffrey Lilley, *Tumen Teeters*, 157 FAR EASTERN ECON. REV. 46, 46-49 (1994).

9. National law or law of nationality, that is, the law of the country to which one owes allegiance.

10. See Korean External Civil Relations Code arts. 17-19, 21 at app. 214.

11. See *id.* arts. 35-37, 39-42, 46 at app. 216-17.

12. See *id.* art. 7 at app. 213.

13. See *id.* Connecting factor is part of the choice of law rule and an element that connects a system of law with the facts of a particular case.

with which the party has the closest relationship¹⁴ is to become the nationality.¹⁵ If the person whose status is in issue is stateless, his/her residence becomes the point of contact.¹⁶ If there is no residence or plural residences in different countries, the place where the party stays is to become the nationality.¹⁷ In the case of a person whose nationality derives from the federated states,¹⁸ the state to which the person belongs becomes the nationality.¹⁹

B. *Renvoi*²⁰

Under the North Korean Private International Law, only remission is recognized.²¹ Thus, in a case in which a North Korean conflicts rule states that the law of Country X is to govern, and if the conflicts rule of Country X prescribes that the law of North Korea shall govern, then the North Korean substantive law, and not the conflicts rule, governs.

C. *Application and Ascertainment of Foreign Law*

The application of referred foreign law or international practice is to be set aside if it is repugnant to the fundamental principle of the North Korean legal system.²² In a case where the court is unable to ascertain the content of

14. Closest relationship is one of the conceptual theories in selecting the applicable law and is the subject of controversy. Numerous theories have been advanced by the writers and the courts, none of which has yet been accepted as fully satisfactory. The concept of closest relationship is similar to that of the most significant relationship approach which was adopted by 1 RESTATEMENT (SECOND) OF CONFLICT OF LAWS 10-17 (1971). For a discussion of various conceptual theories including the most significant relationship approach, see EUGENE F. SCOLES & PETER HAY, CONFLICT OF LAWS 7-41 (2d ed. 1992).

15. See Korean External Civil Relations Code art. 9 at app. 213.

16. See *id.* art. 8 at app. 213.

17. See *id.* The party has to remain for a reasonable period of time, subject to the court's interpretation.

18. The United States is an example of where a federal and state relationship based on federalism is created and where individual states play an important role in dealing with choice of law rules.

19. See Korean External Civil Relations Code art. 19 at app. 214.

20. *Renvoi* means refer back. *Renvoi* is a "conflict of conflict of law rules" when the choice of law rule of the forum refers a matter to a foreign law for decision if the reference is to the whole body of foreign law, including its choice of law rules. It is a doctrine under which the court, in resorting to foreign law, adopts rules of foreign law as to choice of law, which rules may, in turn, refer the court back to the law of the forum.

21. See Korean External Civil Relations Code art. 14 at app. 213. Remission is where two jurisdictions are involved and State A's choice of law rule looks to the law of State B. State B's choice of law rule looks back at State A's law.

22. See *id.* art. 13, 15 at app. 213. The fundamental principle means public policy or *ordre public*. The public policy clause provides the grounds for excluding the applications for foreign law if the effect of the application is contrary to the forum's essential principle of justice and morality. For a discussion of this issue, see MARTIN WOLFF, PRIVATE INTERNATIONAL LAW 176-85 (2d ed. 1950); RUSSELL J. WEINTRAUB, COMMENTARY ON THE CONFLICT OF LAWS 81-85 (3d ed. 1986).

referred foreign law, then either the law of the country with which the party has the closest relationship or North Korean law is applied.²³

III. PARTIES

Parties to external civil relations are North Korean judicial entities or citizens who engage in external civil relations with judicial entities or aliens.²⁴ The disposing capacity²⁵ of a legal person is governed by its *lex patriae*.²⁶ *Lex patriae* also governs the disposing capacity of a natural person.²⁷ However, even if a person is minor pursuant to his/her *lex patriae*, such capacity may still be recognized as major in North Korea, provided that North Korea sanctions such capacity.²⁸ On the other hand, his/her juristic acts should not be related to matters dealing with family or succession to immovable located in a foreign country.²⁹

Lex patriae of the party concerned governs requirements for authentication of incompetence or quasi-incompetence,³⁰ and also governs the authentication of the missing or the deceased.³¹

IV. PROPERTIES

The law of North Korea also governs intellectual property rights with the possibility of using international treaties.³² The law allows parties to stipulate when dealing with a contract for sale, transportation, or insurance.³³ If there is no agreement, *lex loci actus*³⁴ is to govern.³⁵ As to contracts dealing with properties carried out by persons residing in different countries, there is a specific rule.³⁶

Contracts on salvage or general average³⁷ are governed by mutual

23. See Korean External Civil Relations Code art. 12 at app. 213.

24. See *id.* art. 16 at app. 214.

25. Disposing capacity means capacity to understand and appreciate the nature and effects of one's acts.

26. See Korean External Civil Relations Code art. 17 at app. 214.

27. See *id.* art. 18 at app. 214.

28. See *id.*

29. See *id.*

30. See *id.* art. 19 at app. 214.

31. See *id.* art. 21 at app. 214.

32. See *id.* art. 23 at app. 214-15.

33. See *id.* art. 24 at app. 215.

34. *Lex loci actus* means the law of the jurisdiction where an act took place.

35. See Korean External Civil Relations Code art. 25 at app. 215.

36. See *id.*

37. Salvage, in maritime law, is compensation allowed to persons by whose assistance a ship or its cargo has been saved, in whole or in part, from impending danger, or recovered from actual loss in cases of shipwreck, derelict, or recapture. General average is a contribution by the several interests engaged in a maritime venture to make good the loss of one of them for the voluntary sacrifice of a part of the ship or cargo to save the residue of the

agreement by the parties concerned, although certain exceptional rules exist.³⁸ For example, collisions on the high seas between ships with the same national registry, or between ships with different national registries, are subject to different rules.³⁹

As to obligations arising from managerial work without mandate or unjust enrichment of benefits, the law of the place where any act or fact from which such obligation has arisen governs.⁴⁰ *Lex loci delicti commissi*⁴¹ governs a tortious act. However, an obligation arising out of such an act must have been tortious under North Korean law.⁴²

V. FAMILY

Substantive requirements for a marriage or divorce are governed by *lex patriae* of each party concerned,⁴³ while *lex loci celebrationis*⁴⁴ governs the form of a marriage.⁴⁵ The formality requirements of a divorce may be recognized if it complies with the law of the country where the divorce takes place.⁴⁶

Ascertaining the relationship between a natural parent and a natural child is governed by *lex patriae* of the child at the time of the birth,⁴⁷ while *lex patriae* of the adoptive parents governs adoption or dissolution of adoption.⁴⁸

Lex patriae of the ward governs guardianship,⁴⁹ while support is governed by the law of the country where the recipient of support has his/her

property and the lives of those on board, or for extraordinary expenses necessarily incurred for the common benefit and safety of all. The law of general average is part of maritime law.

38. See Korean External Civil Relations Code art. 28-29 at app. 215.

39. See *id.* art. 32 at app. 215-16. In the case of the former, the law of the country under whose flag the ships have been sailing while in the case of the latter, the law of the country in which a court having jurisdiction over collision related matters is located.

40. See *id.* art. 30 at app. 215.

41. *Lex loci delicti commissi* is the law of the jurisdiction where the offense was committed.

42. See *id.* art. 31 at app. 215. It is necessary to meet the requirements under article 241, Min böp (Civil Code), adopted by the decision of the Standing Committee of the Supreme People's Assembly on Sept. 5, 1990. The article stipulates that "unless otherwise prescribed by law, civil liability shall be incurred in case there is negligence. If a person who violates a contract or the law and failed to prove there is no negligence, then there shall be negligence in existence."

43. See Korean External Civil Relations Code arts. 35, 37 at app. 216.

44. *Lex loci celebrationis* means the law of the jurisdiction in which a marriage was celebrated.

45. See Korean External Civil Relations Code art. 35 at app. 216.

46. See *id.* art. 37 at app. 216.

47. See *id.* art. 39 at app. 216.

48. See *id.* art. 40 at app. 216-17.

49. See *id.* art. 42 at app. 217.

residence.⁵⁰ Succession to immovable or movable is governed by two separate rules. *Lex loci rei sitae*⁵¹ deals with immovable while *lex patriae* of the ancestor governs succession of movable.⁵² Wills or revocation of wills is governed by *lex patriae* of the testator.⁵³

VI. DISPUTE SETTLEMENTS

In general, *lex fori*⁵⁴ prevails over procedural matters related to dispute settlement of external civil relations.⁵⁵ However, there is a general rule that parties could reach an agreement to select the jurisdiction of a trial or arbitration⁵⁶ subject to certain restrictions.⁵⁷

The law authorizes seeking international judicial assistance in collecting evidence or examining witnesses from foreign countries for domestic use.⁵⁸

Foreign judgment is recognized based on international reciprocity.⁵⁹ However, there are six grounds that do not recognize the foreign judgment or arbitral award.⁶⁰ Enforcement of foreign judgments or arbitral awards also is possible under the law.⁶¹

VII. CONCLUSION

In this writing, the author highlighted noticeable characteristics of the 1995 Private International Law. The codified North Korean Private International Law follows the tradition of codified Private International Law of the Socialist States,⁶² which traces its origin from the established codification

50. See *id.* art. 44 at app. 217.

51. *Lex loci rei sitae* means the law of the jurisdiction where the thing is situated. The title to realty, for instance, can be affected only by the law of the place where the realty is located.

52. See *id.* art. 45 at app. 217.

53. See *id.* art. 46 at app. 217.

54. *Lex fori* means law of the forum, the law of the jurisdiction where a legal proceeding is commenced and heard.

55. See Korean External Civil Relations Code arts. 48, 51-55 at app. 218. As to judicial proceedings and administration in North Korea, see CHIN KIM, *supra* note 1, at 14-17.

56. See Korean External Civil Relations Code art. 49 at app. 218.

57. See *id.* arts. 50, 56 at app. 218-19. If the parties concerned failed to reach an agreement, article 51 specifies four separate grounds which provide exercise of North Korean jurisdiction. Article 56 prescribes four separate grounds through which a trial or arbitration can be rejected or suspended.

58. See *id.* arts. 57-58 at app. 219.

59. The law (Korean External Civil Relations Code) recognizes foreign judgment based on international reciprocity.

60. See *id.* art. 60 at app. 219.

61. See *id.* arts. 61-62 at app. 219-20.

62. See Friedrich K. Juenger, *The Conflicts Statute of the German Democratic Republic: An Introduction and Translation*, 25 AM. J. COM. L. 332 (1977), where ample references can be found, not only concerning the East German Private International Law statute, but with respect to legislative measures on Private International Law adopted by other So-

practice of continental Europe.⁶³

As discussed earlier, a notable feature of the North Korean choice of law rules is the adoption of nationality doctrine in dealing with personal and family matters.⁶⁴ The doctrine concerns positive (plural) and negative (stateless) conflict of nationalities. To solve these conflicts, the law uses nationality first, residence second, and closest relationship (connection) third.

Use of such a conceptual framework as closest relationship in selecting applicable law has been the subject of controversy.⁶⁵ It is presumed that the North Korean judiciary will eventually fill the content of the concept of closest relationship based on a case by case approach. Since the concept is similar to that of the "most significant relationship," which was advanced by *Restatement of Conflict of Laws*,⁶⁶ it is worthwhile to note its summary here for the North Korean court's future consideration. The summary reads:

The court should consider the following factors in choosing the applicable law: (1) the needs of the interstate and international systems, (2) the relevant policies of other interested states including their interests in having the law applied to the particular issue, (3) the protection of party expectations, (4) the basic policies underlying the particular field of law, (5) the objectives of certainty, predictability and uniformity of result, and (6) the ease of determining and applying the law previously identified as applicable.⁶⁷

At present, a sizable number of North Koreans are living in Japan. Most Koreans settled down there during and after World War II.⁶⁸ Now aged North Koreans in Japan are in need of writing wills and passing on their acquired wealth to their inheritors. How to administer the two following North Korean choice of law rules will be a challenging task for the North Korean authorities:

1. "A will, or revocation of a will, shall be governed by the law of the

cialist states as well. *Id.* at 333-35.

63. As to an historical survey of the development of Private International Law, see MARTIN WOLFF, *supra* note 22, at 119-51.

64. As to the evolution of the nationality doctrine in Private International Law, see *id.* at 125-33.

65. As to criticism of the proper law approach including closest connection (or relationship), see FRIEDRICH K. JUENGER, CHOICE OF LAW AND MULTISTATE JUSTICE 128-31 (1993).

66. 1 RESTATEMENT (SECOND) OF CONFLICT OF LAWS, *supra* note 14, sec. 6, at 10-17.

67. SCOLES & HAY, *supra* note 14, at 34.

68. Approximately 650,000 Koreans resided in Japan in the late 1970s. The legal process for becoming naturalized citizens in Japan is highly complicated and the rules for eligibility are hard to meet under the provisions of the Japanese nationality law. As to the discussion of these issues, see Changsoo Lee, *Koreans in Japan*, in 4 KODANSHA ENCYCLOPEDIA OF JAPAN 29-2 (Kodansha ed., 1983). It is presumed that more than half of Korean residents in Japan are North Koreans.

- nationality of testator,”⁶⁹ and
2. “The succession of movable shall be governed by the law of the nationality of the ancestor.”⁷⁰

Our common notion about the North Korean political entity is that of a recluse and hermit state. However, it is interesting to observe that North Korean codification of conflict of law rules serves as an example of bringing North Korean transnational legal concepts into closer conformity with those of other nations.

APPENDIX

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

(Chosŏn minju-juŭi inmin konghwaguk tae’oe minsa kwan’gye bŏp)
(Adopted by the decision of the Standing Committee of the
Supreme People’s Assembly on 6 September 1995).

CHAPTER 1. FUNDAMENTALS OF THE LAW ON EXTERNAL CIVIL RELATIONS

Article 1. The Law of the Democratic People’s Republic of Korea (DPRK) on External Civil Relations shall contribute to protecting and ensuring the rights and interests of the parties concerned in external civil relations, as well as solidifying the development of external economic cooperation and exchange.

Article 2. This law prescribes applicable laws governing the property and family relations between legal persons or citizens of the DPRK and legal persons or citizens of foreign countries, and further prescribes the procedures for resolution of civil disputes.

Article 3. The State shall respect the self-governing rights of the parties concerned in external civil relations.

Article 4. The State shall promote realizing the principles of equality and reciprocity in external civil relations.

Article 5. The State shall adhere to the fundamental principles of the legal system of the DPRK in external civil relations.

Article 6. Unless a treaty concluded between the DPRK and any other foreign country in connection with external civil relations stipulates otherwise, the applicable law of the treaty concerned shall be followed. However, if there is no applicable law to govern external civil relations, the interna-

69. Korean External Civil Relations Code art. 46 at app. 217.

70. *Id.* art. 45 at app. 217.

tional practice or law of the DPRK shall apply.

Article 7. In case a party has more than two nationalities, the following law shall be considered as his/her law of nationality:

1. Among the nationalities that the party has, if one is North Korean, the law of the DPRK applies;

2. Among the nationalities that the party has, if all are foreign, the law of the country in which the party has a residence applies; and

3. If the party has a residence in each country, or the party has no residence in either country, the law of the country with which the party has the closest relationship applies.

Article 8. If a stateless person has a residence in a certain country, the law of such a country shall become his/her law of nationality. However, if a party has no residence in any country, or has it in plural countries, the law of the country in which such a party stays shall become his/her law of nationality.

Article 9. If a person who has nationality of the country where the application of content of law is different according to the locality, his/her law of nationality shall be determined by the relevant law of said country. However, in case of absence of such relevant law, the locality to which he/she belongs or the locality with which he/she has the closest relationship shall become the basis of law.

Article 10. For a party having his/her residences both in the DPRK and another foreign country, the law of the DPRK shall become the law of the country of residence. However, if a party has residences in more than one foreign country, the law of the country in which such a party stays shall become his/her law of residence.

Article 11. For a party having no residence in any country, the law of the country where such a party stays shall become his/her law of residence.

Article 12. In the event that the law of a foreign country is referred to as applicable law and its content is uncertain, either the law of the country with which the party has the closest relationship or the law of the DPRK shall apply.

Article 13. In the event that the rights and obligations of a party, as derived from the law of the foreign country which has been referred to as applicable law by this law or those established by the application of international practices, should conflict with the fundamental principle of the DPRK legal system, the law of the DPRK shall apply.

Article 14. In case the law of a foreign country referred to as the applicable law pursuant to this law refers back to the law of the DPRK, the latter shall be followed.

Article 15. If a citizen of the DPRK, having a residence in a foreign country, participates in a legal act such as marriage, divorce, adoption, or guardianship prior to the enforcement of this law, the act shall remain valid within the territory of the DPRK unless there is reason to invalidate such act.

CHAPTER 2. PARTIES TO EXTERNAL CIVIL RELATIONS

Article 16. Parties to external civil relations shall be the legal persons and citizens of the DPRK and the legal persons and citizens of foreign countries who are engaging in external civil relations.

Article 17. The capacity to exercise rights of a legal person is governed by the law of the country where such legal person has his/her nationality. However, if the law of the DPRK prescribes differently, the latter shall be followed.

Article 18. The disposing capacity of a citizen shall be governed by the law of nationality.

In the case of any foreign citizen who is minor pursuant to the law of nationality but becomes major pursuant to the law of the DPRK, any act conducted by such a person within the territory of the DPRK shall be valid.

As to an act related to family, succession, or immovable located in a foreign country, the foregoing paragraph shall not be applicable.

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

Article 19. Requirements for authentication of incompetency or quasi-incompetency shall be governed by the law of nationality of the party concerned. However, even if the law of nationality authenticates, if the law of the DPRK is unable to authenticate incompetence or quasi-incompetence may not be authenticated.

Article 20. The effects of authenticated incompetency or quasi-incompetency shall be governed by the law of the country that authenticated the act.

Article 21. The authentication of the missing or the deceased shall be governed by the law of nationality of the party concerned. However, where the authentication of the missing or the deceased is related to any legal person, citizen, or property located in the DPRK, the law of the DPRK shall be applicable.

CHAPTER 3. PROPERTY RELATIONS

Article 22. Such property-related rights as possessory rights or ownership shall be governed by the law of the country where the property concerned is located. However, the rights related with such means of transportation as ships or aircraft, as well as with properties in transit, shall be governed by the law of the national flag which shows on such means of transportation, or by the law of the country to which the aforementioned means belongs.

Article 23. Rights concerning such intellectual properties as copyright and patent shall be governed by the law of the DPRK. However, in case the law of the DPRK lacks such a provision, a relevant international treaty shall

government.

Article 24. Transactional acts on property such as sales, transportation, or insurance contract, shall be governed by the law of the country mutually agreed-upon by the parties concerned. However, in case there is no agreed-upon law by the parties concerned, the law of the country where transactional acts on property have occurred shall apply.

Article 25. In case a contract is to be concluded by means of cable or written communication between the parties residing in different countries, the law of the place of the act is deemed to be the law of the country from which a proposal notice has been dispatched to the other party.

In the event that the place from which such a notice proposal has been dispatched proves unknown, the law of the country where the property transaction occurred is deemed to be the law of the country in which the place of residence or the place of stay of the offeror is located.

Article 26. The formality of the property transactional act shall also be regarded as valid if it comes in compliance with the formality as set out in the law of the country of the act.

Article 27. Such property relations as establishing foreign invested enterprises in the Free Economic and Trade 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 parties concerned, contracts on salvage shall be governed by the following laws:

1. Within the territorial waters, the law of the relevant country;
2. On the high seas, the law of the country in which a court having its jurisdiction over the matter dealing with salvage contract; and
3. In case of salvage by several ships of different national registries on the high seas, the law of the country under whose flag the ship in distress has been sailing.

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. However, in case the parties that are liable are of the same nationality, the law of the common nationality may be applicable.

Article 30. Management of the other party's property or work without mandate or unjust enrichment of benefit shall be governed by the law of the country where any act or act forming the cause has occurred.

Article 31. A tortious act shall be governed by the law of the country where the tortious act has occurred.

The foregoing paragraph shall not be applicable in case any act performed in a foreign country is not prescribed as tortious under the law of the DPRK. However, if it becomes tortious, it shall be liable within the scope prescribed by the law of the DPRK.

Article 32. In case of a collision on the high seas occurring due to illegal acts of ships of the same national registry, the law of the country under

whose flag the ships have been sailing shall be applicable. However, in case of a collision occurring due to illegal acts of the ships of different national registries, the law of the country in which a court having jurisdiction over collision-related matters is located shall govern.

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 the right of the obligor by the obligee shall be governed jointly by the applicable law on obligations and the applicable law on the right of an obligor before a third party.

CHAPTER 4. FAMILY RELATIONS

Article 35. Requirements of marriage shall be governed by the law of nationality of each party concerned. However, even if requirements of marriage are recognized by the law of nationality, the marriage shall not be recognized where there are obstacles to the marriage such as existing marital relationships or consanguinity between the parties concerned under the law of the DPRK.

The form of marriage shall be governed by the law of the country where the parties concerned performed the marriage.

Article 36. The effects of marriage shall be governed by the law of nationality of the spouses.

In case the nationalities of spouses differ, the law of the country where the spouses have their residence shall be applicable. In case the spouses maintain different residences, the law of the country where the spouses have the closest relationship shall be applicable.

Article 37. Divorce shall be governed by the law of nationality of each party concerned.

In case the parties to divorce differ in their nationalities, the law of the country where they have their common residence, and in cases where parties to the divorce maintain different residences, the law of the country where they have the closest relationship shall be applicable.

The form of divorce shall also be regarded as valid if it complies with the form as set out in the law of the country where the divorce takes place.

Article 38. Where either party to the divorce is a resident citizen of the DPRK, the law of the DPRK may be applicable, notwithstanding article 37 of this law.

Article 39. Ascertainment of the relationship between natural parent and natural child shall be governed by the law of nationality of the child at the time of the birth regardless of marital status of the parents.

Article 40. Adoption or dissolution of adoption shall be governed by the law of nationality of the adoptive parents. However, in case the nationalities of adoptive parents differ, the law of the country where they both re-

side shall be applicable.

Any such requirement as obtainment of consent of the adoptee or a third party or of an approval from a state organ, as may be prescribed by the law of nationality of the adoptee, shall be met.

The form of adoption or dissolution of adoption shall also be regarded as valid if it comes in compliance with the form as set out in the law of the country where the parties concerned perform either an adoption or dissolution of adoption.

Article 41. The effects of the relationship between parents and child shall be governed by the law of nationality of the child.

If either of the parents or the child is a resident citizen of the DPRK, the law of the DPRK shall govern.

Article 42. Guardianship is governed by the law of the nationality of the ward.

The form of guardianship shall also be regarded as valid if it comes in compliance with the form as set out in the law of the country where the guardian performs his/her duty.

Article 43. If any citizen of a foreign country residing or staying in our country lacks a guardian, a guardian may be appointed pursuant to the law of the DPRK.

Article 44. Support is governed by the law of the country where the recipient of support has a residence.

Where the recipient of support is not granted a right to be supported under the law of the country where he/she has residence, either the law of nationality of the recipient of support, or the law of the DPRK shall be applicable.

Article 45. Succession to immovable shall be governed by the law of the country where the immovable is located, whereas succession to movable shall be governed by the law of nationality of the ancestor. However, succession to movable by a citizen of the DPRK having residence in a foreign country shall be governed by the law of the country where the ancestor had a residence.

Where a citizen of the DPRK residing in a foreign country lacks an heir, the inheritable property shall be succeeded by the person most significantly closely related with such a citizen.

Article 46. Wills or revocation of wills shall be governed by the law of nationality of the testator.

The form of will or revocation of will shall also be regarded as valid if it complies with the law of the DPRK, the law of the country where the testamentary act has occurred, the law of the country where the testator has a residence, or the law of the country where the immovable is located.

Article 47. Adoption, dissolution of adoption, relationship between parents and child, guardianship, or a will in connection with a citizen of the DPRK having residence in a foreign country may be governed by the law of the country where he/she resides.

CHAPTER 5. SETTLEMENT OF DISPUTES

Article 48. Unless prescribed otherwise in this law, settlement of disputes arising from external civil relations shall be governed by the relevant law of the DPRK.

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

Article 50. Unless the parties concerned did not agree upon jurisdiction of a trial or arbitration in relation to a dispute arising from a property transaction, the competent authority of the DPRK shall exercise jurisdiction over the following cases:

1. In cases where the defendant either has domicile or residence within the territory of the DPRK;
2. In cases where the property damage giving cause to a dispute has occurred within the territory of the DPRK;
3. In cases where either the property of the defendant or object being claimed exists within the territory of the DPRK; or
4. In cases where the cause giving rise to a dispute is related with any immovable registered in the DPRK.

Article 51. Any dispute over the authentication of incompetency, quasi-competency, the missing, or the deceased shall come under the jurisdiction of the competent authority of the DPRK if such a dispute is related with the legal person, citizen, or property located within the territory of the DPRK, irrespective of the nationality and place of residence of the parties concerned.

Article 52. Any dispute over marriage or divorce shall come under the jurisdiction of the competent authority of the DPRK, provided 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 the marital property shall come under the 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 within the territory of the DPRK.

Article 54. The competent authority of the DPRK shall have the jurisdiction over disputes arising from adoption, dissolution of adoption, relationship between parents and child, guardianship, or support only when the parties concerned keep their residence in the DPRK.

Article 55. In case of any dispute over succession, if the heir is a resident citizen of the DPRK or the inheritable property is located within the territory of the DPRK, the competent authority of the DPRK shall exercise jurisdiction regardless of the nationality or residency of the heir.

Article 56. Notwithstanding the request made by any party concerned, any trial or arbitration shall be rejected or suspended in the following cases:

1. In cases where the jurisdiction over the dispute in question is not recognized under this law;
2. In cases where any identical content of proceedings for a trial or arbitration of the dispute in question has already been commenced in any other country;
3. In cases where the parties concerned have agreed to suspend the case; or
4. In cases where there exists any justifiable reason to follow the law of the DPRK.

Article 57. With respect to such procedures for the resolution of disputes as collection of evidence or examination of witnesses within the territory of another country, or recognition or execution of judgment or arbitral awards rendered by the relevant agency of other country, the competent authority of the DPRK may request the competent authority of a foreign country to provide it with necessary materials.

Article 58. Records on interrogation of witnesses and evidentiary materials, etc., offered by a foreign country to the competent authority of the DPRK shall be used as evidence in the resolution of a dispute, subject only to the authentication of the foregoing by a notary public of the relevant foreign country.

Article 59. Any judgment rendered by the competent authority of a foreign country shall be recognized subject to an international agreement on reciprocal recognition. However, where a citizen of the DPRK who is a party to the execution of a judgment on family matters rendered by the competent authority of a foreign country either makes a request for, or agrees to the execution of such a judgment, it may be recognized.

Article 60. Any judgment or arbitration award rendered by a competent authority of a foreign country shall not be recognized in the following cases:

1. In cases where any judgment or arbitration award conflicts with the fundamental principle of the legal system of the DPRK;
2. In cases where any judgment or arbitration award is related to a dispute that comes under the jurisdiction of the competent authority of the DPRK;
3. In cases where any judgment or arbitration award is related to a judgment or arbitration award rendered by the competent authority of the DPRK;
4. In cases where any judgment or arbitration award contains identical content of that of a third country recognized already by the DPRK;
5. In cases where any judgment or arbitration award has been rendered in the absence of any party concerned without justifiable reason; or
6. In cases where there exists any justifiable reason based on the law of the DPRK.

Article 61. Provisions of articles 59 and 60 of this law also shall be applicable to the execution of a judgment or arbitration award rendered by a competent authority of a foreign country.

Article 62. In case any party within the territory of the DPRK has interests in the execution of a judgment or arbitration award rendered by the competent authority of a foreign country, the party may present an opinion before the competent authority of the DPRK within three months of the finalized judgment or arbitration award.