

Current State and Issues of Private International Law in Taiwan (summary)

Chia-Fang Ho

Associate Professor, Soochow University School of Law

The Law Governing the Application of Laws to Civil Matters Involving Foreign Elements as the legal basis for the private international law in Taiwan has completed its significant amendments for the past 57 years in April, 2010. Because the amendment scope was too broad, in order to let the public have the sufficient knowledge of the amended Law Governing the Application of Laws to Civil Matters Involving Foreign Elements ("New Law"), the New Law was implemented on May 26, 2011 after 1 year of its announcement.

In order to accommodate the change of the social economy and legal regimes of each country, the New Law not only adds the new provisions of the evasion of law in section of general rules but also adds the rules of governing laws for various types of matters in the specific section such as the governing law of product liability of manufacturers, intellectual property right, bill of lading security under the custody of centralized depositary. Meanwhile, as to the connecting factors, the New Law adopts a lot of new connecting factors which are different from those of past, including the concepts of the most significant relation and characteristic performance.

However, it is aware from the literature discussion and opinion in practice for the past few years that not only the scholars have no final conclusions for the legislative models and explanations of the relevant legal concepts for many provisions of the New Law but also the judges and lawyers in the first line have a lot of discrepancies and doubts on the standards for the judgment of application of the connecting factors. Given the above, this Article will provide the relevant elaborations and introductions in respect of the current state and issues of private international law in Taiwan.