

**HCCH Asia Pacific Week 2025**

# **Session 6**

# **Judgments Convention**

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# Convention VS KOREA CIVIL PROCEDURE ACT

KCPA § 217	Judgements Convention § 7
① A final and conclusive judgment rendered by a foreign court or a judgment acknowledged to have the same force shall be recognized, if all of the following requirements are met:	1. Recognition or enforcement may be refused if –
2. notification/service	(a) notification
–	(e), (f) conflict of Judgements
4. mutual guarantee(reciprocity)	–

# RECIPROCITY

KCPA § 217 ①	Judgements Convention § 7
4.That mutual guarantee exists, or the requirements for recognition of final judgment, etc. in the Republic of Korea and the foreign country to which the foreign country court belongs are not far off balance and have no actual difference between each other in important points.	-

# Conflict of Judgements

## KCPA (*only for Domestic lawsuit*)

Article 216 (Objective Extent of Res Judicata)

① A final and conclusive judgment shall have the effect of res judicata in so far as the matters contained in the text thereof are concerned.

Article 218 (Subjective Extent of Res Judicata)

① A final and conclusive judgment shall be binding on the parties, successors subsequent to a closure of pleadings successors subsequent to a pronouncement of judgment, in cases of a judgment without holding any pleadings), or persons possessing the object of claims on their behalf.

Article 259 (Prohibition of Double Lawsuits)

For the case pending before a court, neither party shall institute any lawsuit again.

## Judgements Convention § 7

(e) the judgment is inconsistent with a judgment given by a court of the requested State in a dispute between the same parties; or

(f) the judgment is inconsistent with an earlier judgment given by a court of another State between the same parties on the same subject matter, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.

# Notificaton/Service

## KCPA § 217 ①

2. That a defeated defendant is served, by a lawful method, a written complaint or document corresponding thereto, and notification of date or written order allowing him/her sufficient time to defend (excluding cases of service by public notice or similar), or that he/she responds to the lawsuit even without having been served such documents;

## Judgements Convention § 7

(a) the document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim –

(i) was not notified to the defendant in sufficient time and in such a way as to enable them to arrange for their defence, unless the defendant entered an appearance and presented their case without contesting notification in the court of origin, provided that the law of the State of origin permitted notification to be contested; or

(ii) was notified to the defendant in the requested State in a manner that is incompatible with fundamental principles of the requested State concerning service of documents;

# Notificaton/Service under KCPA

Article 174 (Principle of Service Ex Officio)	<b>Unless otherwise prescribed in this Act, a service shall be effected by a court ex officio.</b>
Article 178 (Principle of Service by Delivery)	①Except as otherwise prescribed, a service shall be effected by delivering a certified copy or duplicate of documents to the person on whom service is to be made.
Article 186 (Supplementary Service, and Service by Leaving)	<p>① When a recipient of service has been unavailable at the place of service other than his/her work place, the document may be delivered to his/her clerk, employee or co-habitant, who is man of sense.</p> <p>② When a recipient of service has been unavailable at the work place, the document may be delivered to another person under Article 183 (2), or his/her legal representative or employee, including his/her service worker, who is man of sense, unless he/she refuses an acceptance of the document.</p> <p>③ When a recipient of service of a document or a person to whom the document is to be transferred under paragraph (1) refuses to accept such service without any justifiable reason, such document may be left at the place where the service is to be effected.</p>
Article 187 (Service by Mail)	When a service is not attainable pursuant to the provisions of Article 186, the junior administrative officer, etc. of a court may forward a document in such a manner as prescribed by the Supreme Court Regulations, such as registered mail, etc.
Article 189 (Principle of Forwarding)	Where documents have been forwarded pursuant to the provisions of Article 185 ② 187, such documents shall be deemed to have been served at the time of forwarding.
Article 191 (Method of Service in Foreign Country)	Service to be effected in a foreign country shall be entrusted by the presiding judge to the Korean ambassador, minister or consul stationed therein or the competent government authorities of such country.
<u>Article 194 (Requirements for Service by Public Notice)</u>	① Where the domicile, etc. or the work place of a party is unknown, or where it is impossible to comply with the provisions of Article 191 in regard to a service to be effected in a foreign country, or it is deemed ineffective even if such provisions are complied with, a junior administrative officer, etc. of a court may, either ex officio or upon request from the parties, make service by public notice.

**Thank you**