Recent Trends of Law & Regulation in Korea

Focusing on Business and Investment

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Interview - **Athita Komindr**

Athita Komindr is the Head of the United Nations Commission on International Trade Law Regional Center for Asia and the Pacific (UNCITRAL RCAP), located in Incheon, Republic of Korea. Prior to joining UNCITRAL, Ms. Komindr served in various legal positions as part of the Thai government, including those at the Ministry of Commerce and the Ministry of Science and Technology. She also has extensive experience with the World Trade Organization (WTO), where she served as First Secretary of the Representative Office of Thai as well as Vice Chairwoman of the Committee on Safeguards of the Council for Trade in Goods. She holds a B.A. in English Literature (Honours) from Harvard University; a J.D. from Georgetown University Law Center; and an LL.M. from Harvard Law School.

Emblem

Ministry of Justice

The Republic of Korea government has changed its official "government identity." The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea's national flag Taegeukgi with the taegeuk circular swirl and the blank canvas embodies in white. The typeface was inspired by the font used in the "Hunminjeongeum" (1446), the original Hangeul text, in consideration of the harmony embodied in the taegeuk circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.

Enactments and Amendments of Law

NOTE: The translation is NOT official. It only serves as a guideline.

01 Act on Special Cases Concerning Establishment and Operation of Internet-only Banks

Act No. 15856, Jan. 17, 2019, New Enactment

Legislative Intent

As the economic downturn and income polarization have been prolonged, the proportion of low-income households increased, while the interest rate polarization became serious due to the lack of mid-range interest rate loans for people with bad credit.

In particular, to alleviate the difficulties of inclusive finance, it is necessary to vitalize finance for people with bad credit, which has been reduced since the 2008 global financial crisis, and provide high-quality financial services by expanding competition.

Against this backdrop, the introduction of an internet-only bank in Korea will yield various positive results by 1) resolving the discontinuity in borrowing rates for ordinary people and micro enterprises by providing more mid-range interest rate loans with big data analytics, 2) enhancing convenience for financial customers by promoting interbank competition, and 3) creating new growth engines for the future.

Hence, the Act on Special Cases Concerning Establishment and Operation of Internet-only Banks was enacted to promote innovative enterprises' entry into the financial industry, and provide an institutional foundation for the fusion of information and communications technology (ICT) and finance, and for the creation of new growth engines.

Main Contents

Ⓐ An Internet-only bank is defined as "a bank that conducts the banking business mainly by means of electronic financial transactions (referring to transactions defined in Article 2.1 of the Electronic Financial Transactions Act; hereinafter the same shall apply)" (Article 2).

Ⓑ The statutory minimum capital of an internet-only bank is KRW 25 billion (Article 4).

Ⓒ A non-financial investor shall hold not more than 34/100 of the total outstanding voting stocks of an internet-only bank: Provided, That the qualifications of a non-financial investor who can hold stocks of an internet-only bank, exceeding the limits specified in Article 15. 3 of the Banking Act, and requirements for approval related to holding of stocks thereof shall be determined in the attached table in consideration of the following: investment capability, financial status, and social credibility; effect on concentration of economic power; asset ratio of companies

which engage in information and communications business, etc. (Article 5).

Ⓓ An internet-only bank may not provide credit to corporations other than small and medium businesses (Article 6).

Ⓔ An internet-only bank shall not grant credit exceeding 20/100 of its equity capital to the same borrowers and that exceeding 15/100 of its equity capital to the same borrowers or corporations: Provided, That the foregoing shall not apply to cases where an internet-only bank exceeds the limit of credit granting due to changes in its equity capital or changes in the composition of the same borrowers although it did not grant further credit (Article 7).

Ⓕ An internet-only bank shall not grant credit to its large shareholders: Provided, That this shall not apply where credit granted to a person not a large shareholder becomes credit granted to a large shareholder due to corporate merger, business transfer, change in the constitution of the same borrower, etc. (Article 8).

Ⓖ An internet-only bank shall not acquire equity securities issued by its large shareholders: Provided, That this shall not apply where it is necessary to exercise a right such as a security right or whether other extenuating circumstances exist as prescribed by Presidential Decree (Article 9).

Ⓗ No large shareholders of an internet-only bank shall exercise unfair influence contrary to the internet-only bank's interests (Article 10).

Ⓘ Notwithstanding Article 2 of the Act, where it is deemed essential for the protection of users of an internet-only bank and the enhancement of their convenience, the bank may conduct the banking business by means prescribed by Presidential Decree (Article 16).

02 Framework Act on the Prevention of Violence against Women

Act No. 16086, Dec. 25, 2019, New Enactment

Legislative Intent

There are constant violence and murder cases against women due to discrimination and hatred against them. According to the Prosecutors' Office, women's safety is seriously threatened where women account for 89% of violent crimes. In addition, 51% of women feel insecure in their daily life due to various crimes against women, such as domestic violence, sexual violence, prostitution, sexual harassment, constant harassment, and other violence arising from intimate relationships including dating abuse, digital violence, and random assault.

Meanwhile, the country has been passive in intervening in violence against women and did not take necessary measures for these female offenders and victims.

Hence, the Act aims to clarify the country's responsibility to prevent violence against women and support victim protection, stipulate comprehensive and systematic promotion of the policy for the prevention of violence against women, and increase effectiveness of the policy for supporting victims from the violence, such as the victim support system that reflects the distinctiveness of violence against women, the establishment of consistent statistics, and the spread of awareness on gender equality through violence prevention education in school curriculums.

Main Contents

Ⓐ Definition of Violence against Women (Article 3)

Violence against women is defined as violence against women based on gender, which refers to an act that invades the physical and mental well-being and the right to safety including, domestic violence, sexual violence, prostitution, sexual harassment and constant harassment as prescribed by relevant acts, and other violence in intimate relationships and violence via an information and communications network.

Ⓑ Establishment of Basic Plan (Article 7)

The Minister of Gender Equality and Family shall establish a basic plan of policies for the prevention of violence against women and the protection and support of victims on a five-year basis, which includes the direction and basic goals of the policy for the prevention of violence against women.

Ⓒ Committee for the Prevention of Violence against Women (Article 10)

A Committee for the Prevention of Violence against Women shall be established under the jurisdiction of the Ministry of Gender Equality and Family to deliberate on and adjust major matters on the policy for the prevention of violence against women, such as matters concerning major measures for the foregoing policy by field.

Ⓓ Surveys of Current Status (Article 12)

The Minister of Gender Equality and Family shall conduct survey in every three years on violence against women to include any violence omitted from other surveys in accordance to relevant laws such as, sexual violence, domestic violence, prostitution and sexual harassment. The results of such survey should be published and used as preliminary data in regarding the prevention of violence against women.

Ⓔ Protection of and Assistance to Victims (Article 15)
National and local authorities should provide counseling, medication and compensation, legal aid, employment assistance, housing and education assistance as well as other measures necessary for the victim's protection, recovery, rehabilitation, and independence. Partial or complete assistance to victims shall be conducted for their protection and support.

03 Act on the Transfer and Service of Alternative Military Duty

Act No. 16851, Jan. 1, 2020, New Enactment

Legislative Intent

As the Constitutional Court has ruled out that Article 5.1 of the Military Service Act is inconsistent with the Constitution of the Republic of Korea since it does not stipulate alternative service for objectors to military duty whose legal basis arises from Article 19 of the Constitution, this law intends to harmonize the constitutional freedom of conscience and the obligation of military service.

Main Contents

Ⓐ Those who are eligible for conscription but wish to fulfill alternative service in replacement of active, reserve, or supplementary service for the reason of freedom of conscience ensured by the Constitution of the Republic of Korea shall be allowed to apply for alternative service to the review committee until 5 days before the date of conscription or call. The conscription or call-up of an applicant for transfer to the alternative service shall be delayed until a decision is made by the committee, and if the applicant applies for transfer to the alternative service more than twice, no delay shall be accepted except for circumstances where the committee has approved of (Article 3).

Ⓑ The review committee for alternative service shall be established under the Commissioner of the Military Manpower Administration to review and decide on the alternative service transfer applications. The committee shall be independent to perform tasks under its authority (Article 4).

Ⓒ Members of the review committee for alternative service are required to have more than 10 years of service as a judge, public prosecutor, constitution research officer, attorney-at-law, or psychiatrist. The committee shall consist of 29 appointed members; 5 shall be recommended by the Chairman of the National Human Rights Commission, 5 by the Minister of Justice, 5 by the Minister of National Defense, 5 by the Commissioner of the Military Manpower Administration, 4 by the National Assembly committee of National Defense and 5 by the President of the Korean Bar Association (Article 5).

Ⓓ The review committee for alternative service can establish a preliminary review committee for acceptance, rejection or dismissal of the alternative service transfer applications. Furthermore, a secretariat shall be established to manage affairs concerning the committee (Articles 7 & 10).

Ⓔ The review committee as well as the preliminary review committee can investigate necessary facts for the review and request a transfer applicant, witness or fact witness to submit relevant materials if considered necessary (Article 11).

Ⓕ An alternative service transfer applicant has a right to be represented by a defense counsel and the committee shall allow presence of a trusted person unless it interferes with the fairness of the review and decision (Article 12).

Ⓖ The review committee shall decide the acceptance, rejection or dismissal of the application within 90 days from the date of receipt of the application and if the applicant objects to the decision, he shall be allowed to file an administrative appeal or administrative litigation (Article 13).

Ⓗ An alternative service transfer applicant shall be transferred to alternative service on the day the committee accepts his application. In case where the applicant's transfer has been accepted through an administrative appeal or litigation, he shall be transferred on the day such appeal or litigation is finalized (Article 15).

Ⓘ An alternative service agent shall serve affairs necessary for the public interest at facilities for alternative service such as, correctional institutions. Nevertheless, the works of such agent shall not include the use of lethal or non-lethal weapons and the management or crackdown of such weapons (Article 16).

Ⓙ The term of service of an alternative service agent shall be 36 months, and the Minister of National Defense can, if the incumbent soldier's term of service is adjusted, and with the request from the Commissioner of the Military Manpower Administration, adjust the term of service within 6 months range after deliberation from the cabinet meeting and with the approval of the President (Article 19).

Ⓚ The head of the alternative service facility shall grant alternative work to the agent and such agent will stay in the camp (Article 21).

Ⓛ If the agent goes AWOL without a valid reason, his service shall be extended by a period that is five times longer than the days he has gone AWOL (Article 24).

Ⓜ If the agent has been transferred in an unjust manner such as, making a false statement or submitting false materials his transfer shall be revoked. Furthermore, such agent shall be expelled from the alternative service and shall return to his past military service to fulfill his military obligation (Article 25).

Ⓝ The Commissioner of the Military Manpower Administration shall let the agent serve at an alternative service facility in replacement of reserve force training in accordance with the Reserve Forces Act from the date of completion of his service to the end of the eighth year (Article 26).

04 Equal Employment Opportunity and Work-Family Balance Assistance Act

Act No. 16558, Jan. 1, 2020, Partial Amendment

Legislative Intent

The intent of the amendment is to provide a basis for providing paternity leave benefits, expand the period of paternity leave, enhance the system for the protection of motherhood by revamping the time period of reduction of working hours for a period of childcare as well as the number of divided uses thereof. The amendment also intends to contribute to vitalizing work-family balance by improving and supplementing loopholes that have surfaced in the operation of the current system by expanding the scope of family for which short-term family care leave is available, newly establishing family care leave that is available for urgent cases of family care, and etc.

Main Contents

Ⓐ The State may pay an amount of money equivalent to the ordinary wages for the period of the relevant leave to persons meeting specific requirements among employees who have taken paternity leave (Article 18.1).

Ⓑ When an employee requests leave on the grounds of his spouse's childbirth, the employer shall grant him a 10-day leave, an amendment of the previous act that prescribed the employee be given more than 3 days of leave within a 5-day time period, and the employee shall be paid for the entire period of leave used (Article 18.2.1).

Ⓒ The previous act, which prescribed that an employee shall request leave on the grounds of his spouse's childbirth within 30 days from the date the spouse of the relevant employee gave birth, has now been amended to extend the 30-day term to 90 days, and paternity leave may be used over several occasions, limited to only once. (Article 18.2.3 and Article 182.4 Newly Inserted).

Ⓓ In case of reduction of working hours for a period of childcare, the maximum working hours post-reduction has been adjusted from 30

hours a week to 35 hours a week, and if an employee who is eligible to apply for childcare leave has not fully used such leave for a period of childcare, the remaining period shall be added to the period for reduction of working hours for a period of childcare (Article 19.2.3 and Article 192.4).

Ⓔ The form of use of childcare leave and a reduction of working hours for a period of childcare has been reformed. The previous act which permitted the use of childcare leave over several occasions, limited to only once, has been amended to permit such use without a limit on the number of times such use is permitted, while each period of use in such cases has been prescribed to be at least three months (Article 19.4).

Ⓕ Grandparents and grandchildren have been added to the scope of family for which family care leave is available, while such leave has been made unavailable for cases where the employee's grandparents have other lineal descendants or the employee's grandchildren have other lineal descendants than the employee himself/herself (Article 22.2.1).

Ⓖ The short-term family leave system, which permits an employee of a maximum of 10 days of leave per year in cases where the employee applies for leave to urgently care for his/her family on the grounds of their disease, accident or senility or to rear his/her children, has been newly established (Article 22.2.2 and Article 22.2.4 Newly Inserted).

Ⓗ A reduction of working hours has been made available for cases where an employee cares for his/her family on the grounds of their disease or himself/herself on the grounds of his/her disease, an employee aged 55 years or older prepares for his/her retirement or an employee pursues his/her studies. Provisions for matters such as working conditions under a reduction of working hours have also been established (Article 22.3 and Article 22.4 Newly Inserted).

Ⓘ Penalty provisions have been modified to provide that an employer who dismisses, or takes any disadvantageous measures against, an employee on the grounds of paternity leave is to be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won.(Article 37.2.2.2 Newly Inserted)

05 Road Traffic Act

Act No. 16830, Dec. 24, 2019, Partial Amendment

Legislative Intent

Protection areas for children have been designated and managed to protect children from the dangers of traffic accidents. However, as traffic accidents have continuously been occurring within protection areas for children, the amendment intends to provide a legal basis for the preferential installation of unmanned traffic regulation equipment and crosswalk signal apparatuses in protection areas for children. The amendment also intends to improve and supplement loopholes that have surfaced in the operation of the current system by expanding permitted cases of driving on the roadside, restricting the attainment of a driver's license by people who have not completed alien registration nor reported the place of residence while not holding the nationality of the Republic of Korea, newly enacting penalty provisions for cases where a person whose motorcycle driver's license is suspended of effect drives a motorcycle, etc.

Main Contents

Ⓐ The commissioner of a district police agency, the chief of a police station, the Special Metropolitan City Mayor, the Metropolitan City Mayor, the Governor of Jeju Special Self-Governing Province or the head of a Si/Gun shall preferentially install unmanned traffic regulation equipment on the roads in protection areas for children designated by the Ordinance of the Ministry of the Interior and Safety, and the Special Metropolitan City Mayor, the Metropolitan City Mayor, the Governor of Jeju Special Self-Governing Province or the head of a Si/Gun shall preferentially install

establishments or equipment such as signal apparatuses at crosswalks or request installation of such establishments or equipment to the competent road management agency (Article 12.4 and Article 12.5 Newly Inserted)

Ⓑ While driving on the roadside had only been permitted for emergency motor vehicles and vehicles used to repair and maintain roads, etc., it is now also permitted in cases of traffic congestion where a person drives on the roadside upon signals or instructions of signal apparatuses or police officers (Article 60.1).

Ⓒ People who have not completed alien registration while not holding the nationality of the Republic of Korea and not being exempt from alien registration or foreign nationality Koreans that have entered the Republic of Korea under the status of sojourn as overseas Korean and have not reported the place of residence are ineligible for the issuance of a driver's license (Article 82.1.7 Newly Inserted).

Ⓓ The grounds for punishment are provided for those who drive a motorcycle with a motorcycle driver's license of which the validity has been suspended or without an international driver's license to operate a motorcycle, etc.(Article 154.2 and Article 154.5)

06 Infant Care Act

Act No. 16404, Apr. 30, 2019, Partial Amendment

Legislative Intent

Childcare centers operate 12 hours or more a day as a rule, and nursery teachers work eight hours a day, but in reality, infants who are left until late hours are not provided with stable childcare services and nursery teachers are not guaranteed proper working hours. In order to solve this problem, childcare hours at daycare centers are divided into basic childcare and extended childcare services so that day care teachers can be placed by childcare hours.

In order to enhance the effectiveness of the enforcement penalty system for workplaces that do not fulfill their duty to install childcare centers, the measure is designed to stipulate that the amount of the penalty can be increased in the range of 50 out of 100 by considering the period and reasons for not installing childcare centers.

Main Contents

Ⓐ Childcare centers operated separately by basic childcare and extended childcare can deploy day care teachers who are exclusively responsible for each of childcare hours (Article 17.2 Newly Inserted).

Ⓑ Childcare centers are allowed to operate basic childcare, which is a required course for all infants at the daycare center, and extended childcare provided according to the needs of the guardians. (Article 24.2 Newly Inserted).

Ⓒ The Mayor or the Governor may increase the enforcement penalty in the range of 50 out of 100 considering the period and reasons for not installing childcare centers at workplaces.(Article 44.3.2 Newly Inserted)

07 Act on the Prevention and Management of Infectious Diseases

Act No. 17067, Mar. 4, 2020, Partial Amendment

Legislative Intent

As the recent spread of the highly contagious COVID-19, the nation is required to take active measures to prevent and manage infectious diseases.

At this point, in order to strengthen the ability to respond to infectious diseases at the national level, the basic plan on the prevention and management of infectious diseases shall include matters concerning the storage and management of medicines and equipment against infectious diseases. Moreover, considering the importance of sharing information to the people in the event of an infectious disease crisis, the scope and procedures of information disclosure such as pathways of the patient shall be provided in detail.

Meanwhile, in an effort to cope with the national crisis caused by infectious diseases more efficiently, the government is trying to improve and supplement some shortcomings that have been shown in the operation of the current system, by strengthening the compulsory measures involving infectious diseases and by expanding the size of epidemiological investigators.

Main Contents

Ⓐ The Minister of Health and Welfare shall include matters concerning the storage and management of medicines and equipment against infectious diseases when establishing a basic plan on the prevention and management of infectious diseases (Article 72.2.2.2 Newly Inserted).

Ⓑ The Minister of Health and Welfare, the Mayor, the Governor, or the Head of the District Office shall have the person examined for infectious diseases after receiving reports that a person suspected of being a first-grade infectious disease patient has refused to be tested for infectious diseases, and those who refuse to do so are subjected to a fine of up to KRW 3 million (Article 13.2 and Article 80.2.2 Newly Inserted).

Ⓒ The grounds are prepared for the Minister of Health and Welfare to evaluate and manage laboratory testing capabilities of infectious diseases pathogens, such as the Korea Centers for Disease Control and Prevention and the National Quarantine Station, etc. (Article 16.2 Newly Inserted)

Ⓓ The Minister of Health and Welfare the Mayor, and the Governor shall announce the results of an investigation into the management and infection of infectious diseases and the conditions of resistant bacteria (Article 17).

Ⓔ It is made clear that the report of separation and movement of high-risk pathogens requires acceptance (Article 21.4, the latter part of Article 22.3, Article 23.6, Article 52.2 and Article 53.2 Newly Inserted).

Ⓕ The Minister of Health and Welfare shall disclose to the public the pathways of infectious disease patients, the means of transport, the medical institution, and the status of contact, if a warning of above caution according to the Framework Act on the Management of Disasters and Safety is issued due to the spread of infectious diseases, and specify the scope and procedures of information disclosure in the event of an infectious disease crisis, such as allowing those who disagree with the facts or have opinions to file an objection to the Minister of Health and Welfare (Article 34.2).

Ⓖ The Minister of Health and Welfare shall be added to the designated body of the infectious disease management institution, and the state shall pay for the expenses for the installation and operation of infectious disease management facilities designated by the Minister of Health and Welfare (Article 36.1 and Article 67.6.3 Newly Inserted).

Ⓗ The Minister of Health and Welfare shall prohibit the export of medicine, medical supplies or quasi-drugs for a certain period of time when the prevalence of first-grade infectious diseases threatens to significantly undermine the national health due to rapid inflation or lack of supplies, and the violators shall be sentenced to up to five years in prison or up to KRW 50 million in fines (Article 40.3 and Article 77.3 Newly Inserted).

Ⓘ In the event of a first-grade infectious disease, the Minister of Health and Welfare, the Mayor, the Governor, or the Head of the District Office shall quarantine, investigate, examine, treat, or hospitalize a person suspected of being a patient, while raising the penalty for those who refuse to take quarantine measures (Article 42.2, Article 42.3 and Article 79.3 Newly Inserted).

Ⓙ The Minister of Health and Welfare, the Mayor, the Governor, or the Head of the District Office shall take necessary measures, such as the provision of masks, to those who are vulnerable to infection if a warning of above caution according to the Framework Act on the Management of Disasters and Safety is issued (Article 49.2 Newly Inserted).

Ⓚ When carrying out disinfection in order to prevent infectious diseases, the measure should be conducted in a safe manner by minimizing harmful effects to people's health and nature (Article 51.1 Newly Inserted (latter part)).

Ⓛ The head of a Si/Gun/Gu may appoint epidemic control officers and epidemiological investigation officers if necessary for dealing with affairs of infectious disease prevention, epidemic control, and affairs concerning epidemiological investigations, and the public officials of the Ministry of Health are to compose at least a hundred among epidemiological investigation officers, a number increased from the previous thirty. (Article 60.1 and Article 60.2.1)

Ⓜ A mayor/Do Governor and the head of a Si/Gun/Gu may request the police agency to provide location information of patients, etc. with an infectious disease and the Minister of Health and Welfare shall utilize the information system of the National Health Insurance Corporation, etc. to provide records of immigration control to a health and medical service institution if necessary to prevent infectious diseases and block the spread of infection, and the medical personnel or pharmacists are to check the records of immigration control of patients, etc. when they conduct medical activities or when they prescribe or fill up the prescription for a medicine. (Article 76.2)

Ⓝ Members of Compensation Deliberation Committee who are not public servants would be regarded as public servants in cases where regulations under Articles 127, 129-132 of the Criminal Act are applied.(Article 76.4 Newly Inserted)

08 Animal Protection Act
Act No. 15502, Mar. 20, 2018, Partial Amendment

Legislative Intent
Since no methodical management regulation on aggressive dogs provided in the current law, it finds no legitimate reasons to penalize the owner of an aggressive dog amidst frequent accidents caused by aggressive dogs.
Moreover, while there are no legal grounds to keep minors from practices of animal dissection, in reality, minors are told to dissect animals in private educational institutes, etc., and this been raising concerns for disregarding animal lives and damages to the emotions of minors.
Therefore, this act aims to strengthen the management on aggressive dogs by stating the definition of an aggressive dog, newly inserting the duty of owner about the management of aggressive dogs and quarantine measures, etc., and prohibit minors from animal dissection practices and renovating related systems in order to protect the emotions of minors and enhance the awareness for animals' right to life.

Main Contents
Ⓐ Newly inserted provisions are as follows: the definition of an aggressive dog; making an aggressive dog's owner keep the dog on a leash or leave a muzzle on the dog as a safety back when going outside; and grounds for a quarantine without obtaining the consent of its owner if an aggressive dog causes bodily injury to a person (Articles 2.3.2 and 13.2 Newly Inserted).

Ⓑ In the case of the animal care center which designation has been revoked due to actions of animal abuse, the limitation period for redesignation has been extended from the current one year to two years. (Article 15.8)

Ⓒ Grounds for transferring or donating laboratory animals have been newly inserted, and it has been prohibited to make a minor practice animal dissection.(Article 23, Article 24.2 Newly Inserted)

09 Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes
Act No. 17086, Mar. 24, 2020, Partial Amendment

Legislative Intent
Due to increasing damages of Deepfake and other technologies that edit visual images of a particular person's body into a form that may cause any sexual stimulus or shame, there has been a growing need to arrange a separate punishment regulation since the punishment was either difficult or weak undercurrent ones.
Thus, this new regulation is seeking to provide the legal basis of punishments to a person who edits, composes, or processes photographs of another person's body in a way that may cause any sexual stimulus or shame against the will of the person photographed, to distribute, etc., a person who distributes, etc. such edited products, compilations, or their duplicates, or a person who distributes, etc. the edited product against the ex-post will of the person photographed which was not against the will of the person photographed as at the time such photograph was edited, composed or processed, and this regulation is also aiming to subject aggravated punishment to a person who commits such crimes using information and communications network for the purpose of making profits.

Court Decisions

NOTE: The translation is NOT official. It only serves as a guideline.

01 Supreme Court Decision 2016Da202947 Decided December 22, 2017

Damages (Etc.)

Main Issues and Holdings

[1] In a case where an employer either dismissed or took any other disadvantageous measure against an employee who was either victimized by sexual harassment or is claiming sexual harassment in the workplace, whether such case constitutes tort as stipulated by Article 750 of the Civil Act (affirmative in principle)

Standard for determining whether the employer's disadvantageous measure taken against the victimized employee is unlawful

Allocation of the burden of proof on whether the disadvantageous measure taken against the victimized employee has no relevance with sexual harassment or there exists a justifiable reason (held: employer)

[2] In a case where an employer took an unjust and disadvantageous measure against an employee —a colleague who helped an employee who was either victimized by sexual harassment or is claiming sexual harassment in the workplace —and thus caused emotional distress, whether that victimized employee or colleague may hold the employer liable for tort pursuant to Article 750 of the Civil Act (affirmative)

Whether in such case the employer is liable for compensation to the extent of either having known or could have known of the damage incurred on the part of the victimized employee or colleague (affirmative)

Standard for determining the existence of predictability

[3] In the event an investigation is conducted regarding sexual harassment in the workplace, whether the investigation participant has the duty of confidentiality (affirmative)

Whether the employer is required to instruct the investigation participant to comply with the duty of confidentiality (affirmative)

In a case where an employee intentionally committed a wrongful act, such as sexual harassment, against another person, requirements to deem that such case constitutes "performing a specific affair," which is an element for the establishment of employer's liability

Summary of Decision

[1] The Equal Employment Opportunity and Work-Family Balance Assistance Act (amended by Act No. 15109, Nov. 28, 2017; hereinafter "Equal Employment Act") explicitly states sexual harassment in the workplace as an act that is legally prohibited, and mandates an employer to take ex ante and ex post measures to prevent sexual harassment in the workplace. In particular, the Equal Employment Act stipulates that an employer shall not take any disadvantageous measures against neither an employee who was a victim of sexual harassment in the workplace nor an employee who is claiming sexual harassment in the workplace, and has an express provision that a violator thereof shall be subject to criminal punishment.

When sexual harassment has occurred in the workplace, an employer is obligated to actively protect, and provide relief to, the victim, but, there are instances where an employer takes measures that are disadvantageous against or unfavorable toward the victimized employee. Such act not only leads to an adverse effect where the victim is left to cope with the aftermath of sexual harassment and hide the fact of having been sexually harassed, but also causes pain by emotional distress that is more deeply felt than that caused by sexual harassment. The statutory provision, as seen above, purports to quickly and adequately provide relief to employees who were sexually harassed on the job, and prevent sexual harassment in the workplace. That is, it functions as a means to ease the mind of the employee, who reported having suffered sexual harassment in the workplace, to not worry about secondary victimization (defined as "victim-blaming attitude, behavior, and practice"), and to ensure that proper measures, such as disciplinary action against the perpetrator, would be taken by the employer.

In a case where an employer either dismissed or took any other disadvantageous measure against an employee who was either victimized by sexual harassment or is claiming sexual harassment in the workplace (hereinafter "victimized employee"), said act by the employer is a violation of Article 14(2) of the Equal Employment Act, thereby constituting tort under Article 750 of the Civil Act. However, this legal doctrine does not hold true if the employer's measure taken against the victimized employee is irrelevant to being victimized by sexual harassment in the workplace or relevant issues raised thereof. The same is also applicable in a case where there exists a justifiable reason behind the employer's measure, separate from sexual harassment in the workplace.

The matter of whether an employer's disadvantageous measure taken against a victimized employee is deemed unlawful should be determined by comprehensively taking account of the following: (i) temporal proximity between the point of time the issue of sexual harassment in the workplace was raised and the period when the disadvantageous measure was taken; (ii) details and process of the disadvantageous measure; (iii) whether the reason provided by the employer when taking the disadvantageous measure existed prior to the victimized employee's report of sexual harassment; (iv) degree of infringement of another person's rights or interests due to the victimized employee's act; (v) extent of negative consequences suffered by the victimized employee due to the employer's disadvantageous measure; (vi) whether the disadvantageous measure was either unprecedented or discriminatory when compared to previous practices or similar cases; and (vii) status of countermeasures, such as relief, taken by the victimized employee regarding the disadvantageous measure.

The Equal Employment Act provides that an employer bears the burden of proof in a dispute settlement (Article 30), and the same is applicable regarding disputes over sexual harassment in the workplace. Therefore, in the event of a dispute involving sexual harassment in the workplace, the employer should prove that the disadvantageous measure taken against the victimized employee has no relevance with sexual harassment or there exists a justifiable reason.

[2] Inasmuch as Article 14(2) of the Equal Employment Opportunity and Work-Family Balance Assistance Act (amended by Act No. 15109, Nov. 28, 2017; hereinafter "Equal Employment Act") only stipulates that "the employer shall not dismiss, or take any other disadvantageous measures against, a worker who has suffered damage with regard to sexual harassment on the job or who has claimed that damage from sexual harassment occurred," in a case where an employer took a disadvantageous measure against another employee (a colleague who helped the victimized employee), then deeming it as a direct violation of Article 14(2) is difficult.

However, if a disadvantageous measure taken against a colleague who was close to and helped the victimized employee is unjust and caused emotional distress, then the employer could be held liable for tort pursuant to Article 750 of the Civil Act, even in cases where such liability is claimed by an employee who was not the direct counterparty of such disadvantageous measure.

Upon the occurrence of sexual harassment in the workplace, an employer, according to the Equal Employment Act, is obligated to take quick and appropriate measures to improve the work environment, as well as respect and protect the dignity of its employees by creating a healthy work environment so that victimized employees do not suffer from secondary victimization. Yet, if an employer took a disparate disciplinary measure against a colleague who helped the victimized employee, then the employer could be deemed to have breached the duty to protect victimized employees, barring special circumstances.

Meanwhile, the occurrence of damages from the disciplinary action taken against a colleague who helped the victimized employee falls under damages due to special circumstances. Accordingly, an employer, pursuant to Articles 393 and 763 of the Civil Act, should be deemed liable for compensation to the extent of either having known or could have known of such damages. In such case, the existence of predictability should be determined by considering the following various circumstances: (i) details and motive behind the employer's disciplinary action against the colleague who helped the victimized employee; (ii) temporal proximity between the point of time when the victimized employee either reported the occurrence of sexual harassment or sought relief and the point of time when the employer took disciplinary action; and (iii) anticipated negative consequences that the victimized employee and colleague might experience from the employer's act. In particular, if an employer, immediately after knowing who assisted the victimized employee in the exercise of rights, took a discriminatory and unjust disciplinary measure against that colleague without any justifiable reason, there is sufficient room to predict that such disciplinary measure might cause emotional distress on the victimized employee and colleague.

[3] Although there is no express provision under the current Equal Employment Opportunity and Work-Family Balance Assistance Act (amended by Act No. 15109, Nov. 28, 2017; hereinafter "Equal Employment Act"), the main text of Article 14(7) of the revised Equal Employment Act explicitly provides for the duty of confidentiality by prescribing that a person who investigated the occurrence of sexual harassment in the workplace, a person who received a report of said investigation, or a person who participated in the investigation process (hereinafter "investigation participant") shall not divulge confidential information obtained through the investigation to another person against the will of the employee who was either victimized by sexual harassment in the workplace or is claiming sexual harassment in the workplace (hereinafter "victimized employee").

Prior to the aforementioned revised Act taking effect, in light of Articles 10 and 17 of the Constitution that guarantees an individual's personal right, right to privacy, and freedom; the legislative purport of the Equal Employment Act that seeks to prevent sexual harassment in the workplace and protect victimized employees; and the characteristics of sexual harassment in the workplace, etc., an investigation participant, in the event an investigation is conducted regarding sexual harassment in the workplace, should keep information strictly confidential and maintain impartiality, barring any other special circumstances. The investigation participant's disclosure of confidential information obtained while investigating sexual harassment in the workplace or overt remark and behavior that may undermine the social value or reputation of the perpetrator and the victim should be considered illegal. Such remark and behavior could result in secondary victimization on the part of the victimized employee and, ultimately, dissuade that employee from reporting sexual harassment in the workplace. As such, an employer should make sure that an investigation participant upholds the duty of confidentiality.

Meanwhile, "performing a specific affair," which is an element for the establishment of employer's liability under Article 756 of the Civil Act, is construed as an act performed without considering an actor's subjective circumstances if an employee's tortious act is objectively deemed, on the surface, related to an employer's business activity, execution of affairs, or any other relevant activities. In a case where an employee intentionally committed a wrongful act, such as sexual harassment, against another person, even if such act is not considered the employee's performance of business affairs per se, but, is temporally and spatially proximate to the employer's business, while the employee was wholly or partially conducting his or her duties, or the motive of such wrongful act is connected to the employee's work, then it should be externally and objectively deemed related to the employer's performance of a specific affair, thereby establishing employer's liability. In such case, whether an employer took measures to prevent the occurrence of risks may be additionally factored in the fair division of damages.

(Source: eng.scourt.go.kr)

02 Supreme Court Decision 2016Da18753 Decided November 29, 2018

Decision on Enforcement

Main Issues and Holdings

[1] In a case where grounds for a demurrer arose upon the recognition of a foreign arbitral award, whether the enforcement of the same may be denied in a trial by deeming that it goes against the public order under Article V(2)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (affirmative)

[2] Meaning of "believing the granting of representation right based on one's expression of intent and act" pursuant to Article 3:61(2) of the Dutch Civil Code

Whether a counterparty is warranted protection in cases where the existence of representation right in appearance was created by oneself or arose from a situation within the scope that is to be endured by oneself (affirmative)

If there is doubt as to the existence of representation right given that it unclear whether a person undertaking a representative act has such right, whether a counterparty has the duty to investigate the representation right (affirmative)

If the external situation that one created is obvious to the extent that it is reasonable to believe the existence of representation right, whether a counterparty has the duty to investigate the representation right (negative)

[3] Legislative purport of Article V(2)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Method of determining cases where the recognition or enforcement of an arbitral award goes against the relevant country's public order

[4] In a case where: (a) Company A concluded with Foreign Company B a license agreement on Company B's patent, etc.; (b) on grounds that Company A violated the foregoing license agreement when applying for a patent, Company B filed for arbitration against Company A seeking the restitution of all rights and interests pertaining to the applied patent; and (c) an arbitral award was rendered ordering Company A to transfer to Company B the entire rights and interests related to the patent, and, upon nonperformance of the same, ordering Company A's indirect compulsory performance of compensatory payment, the Court affirming the judgment of the lower court deeming that the portion of the arbitral award ordering indirect compulsory performance does not go against public order and good morals to the extent of denying enforcement

[5] Meaning of arbitrability, which is the subject of dispute under Article V(2)(a) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Whether arbitrability of a dispute itself may be denied solely on the basis that a specific means of relief regarding the dispute at issue falls under the exclusive territorial jurisdiction of a court of the enforcing country (negative)

Summary of Decision

[1] A judgment of execution, which grants executability of a foreign arbitral award so that it may proceed as compulsory enforcement under the laws of the Republic of Korea, determines the existence or absence of executory power based on the time of the closing of pleadings. In a case where the emergence of grounds for a demurrer under the Civil Execution Act, i.e., extinguishment of a claim following an arbitral award, leads to the revelation during pleadings in a judgment of execution that permitting compulsory enforcement based on a written arbitral award contradicts the fundamental principle of laws of Korea, a court may refuse the enforcement of such arbitral award by deeming the same as going against the public order under Article V(2)(b) on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

[2] As regards apparent representation, Article 3:61(2) of the Dutch Civil Code provides that, in cases where a person without the right of representation took legal action in one's name and a counterparty believed that the right of representation was granted based on one's expression of intent and act and the same was reasonably believable in such a situation, the effectiveness of said legal act is vested to oneself.

As above, believing the granting of representation right based on one's expression of intent and act refers to cases where one creates a situation in which the right of representation exists, in appearance, to a person who undertook a representative act, or where one has to endure the risks of being responsible for making a counterparty of a legal act believe in the fact or circumstance that there exists the right of representation from a transactional standpoint. Therefore, a counterparty is warranted protection in both cases where the existence of representation right was created by oneself or arose from a situation within the scope of risk that is to be endured by oneself.

As regards an attorney representing a party, the right of representation may be inferred with respect to acts in litigation proceedings but not so for other acts. A counterparty of a legal act should believe that there exists the right of representation based on rationale. In view of various circumstances, where the existence of representation right is doubtful given that it is unclear whether a person undertaking a representative act has such right, a counterparty has the duty to investigate the representation right (onderzoeksplicht). However, if the external situation that one created is obvious to the extent that it is reasonable to believe the existence of representation right, a counterparty does not have such duty.

[3] Article V(2)(b) of the Convention on the Recognition and Enforcement of Arbitral Awards provides that the court of an enforcing country may deny the recognition or enforcement of an arbitral award in cases where such recognition or enforcement goes against the relevant country's public order. The underlying purpose is to keep the recognition or enforcement of an arbitral award from hurting the enforcing country's fundamental moral conviction and social order, thereby safeguarding such moral conviction and social order. Therefore, the foregoing provision ought to be construed by factoring in not only domestic circumstances but also the perspective of ensuring the stability of international transaction order. The fact that a foreign law applied to a

foreign arbitral award contravenes the compulsory enforcement rule under the Korean positive law does not necessarily become grounds for non-recognition. Rather, in the event that an arbitral award is acknowledged, the recognition and enforcement of a foreign arbitral award may be denied if the consequence arising from the acknowledgment of the same is contrary to Korea's good morals and other social order.

[4] In a case where: (a) Company A concluded with Foreign Company B a license agreement on Company B's patent, etc.; (b) on grounds that Company A violated the foregoing license agreement when applying for a patent, Company B filed for arbitration against Company A seeking the restitution of all rights and interests pertaining to the applied patent; and (c) an arbitral award was rendered ordering Company A to transfer to Company B the entire rights and interests related to the patent, and, upon nonperformance of the same, ordering Company A's indirect compulsory performance of compensatory payment, the Court determined that: (a) where a judgment becomes final and conclusive regarding an obligation of expression of intent, such as transfer of patent right, indirect compulsory performance is impermissible with respect to patent right transfer according to the principle of the subsidiarity of indirect compulsory performance, inasmuch as the method of compulsory enforcement is stipulated in Article 263(1) of the Civil Execution Act; (b) however, albeit an arbitral award ordering indirect compulsory performance of an obligation to express intent is recognized, unlike the Civil Execution Act of Korea, indirect compulsory performance is merely inducing voluntary expression of intent through an indirect means of applying psychological pressure; (c) as such, the level of restricting the freedom of decision-making is relatively low, so readily concluding the infringement of the constitutional personality right solely based on such indirect compulsory performance is difficult; and (d) in light of the above, the lower court is justifiable to have deemed that the portion of the arbitral award ordering indirect compulsory performance did not go against public order and good morals to the extent of denying enforcement.

[5] According to Article V(2)(a) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the recognition or enforcement of an arbitral award can be denied in cases where the subject matter of dispute is insolvable via arbitration based on the law of the relevant country. Here, arbitrability refers to whether the subject of dispute may be resolved, given the nature of the dispute, via an agreement between the parties via arbitration pursuant to the principle of private autonomy. The arbitrability of a dispute may vary among countries, but the same should not be limited based on a complex standard that is difficult to be regarded as a global universal norm. In particular, the arbitrability of a dispute itself cannot be denied solely on the basis that a specific means of relief regarding said dispute falls under the exclusive territorial jurisdiction of a court of the enforcing country.

(Source: eng.scourt.go.kr)

03 Supreme Court Decision 2014Da220798 Decided June 13, 2019

Compensation for Damages

Main Issues and Holdings

[1] A method to decide whether expression of a critical opinion towards a public figure, such as a political or a public servant, constitutes an unlawful act.

[2] In a case which A, who was a member of the National Assembly, criticized Incheon Metropolitan City mayor and presented a statement that contains contents of "B, the member of the National Assembly, a symbol of Pro-North at the clear seas of Baengnyeongdo where 46 souls of warriors from ROKS Cheonan lies," B requested compensation money upon moral right violation inflicted by the expression above, considering all circumstances it is difficult to recognize A's expression of B, a "symbol of Pro-North" in the statement above, as something that corresponds to exceedingly defaming and derogatory attack on a person that surpasses the limits of opinion expression, there was an error of misunderstanding of legal principles in the judgment of the original court that differently ruled about the constitution of unlawful actions by opinion expression.

Summary of Decision

[1] When the agent of expression has declared a critical opinion toward others if the form or content of that expression corresponds to a defaming and derogatory personal attack, or when the agent proclaims a distortion of facts which action goes beyond the level of some exaggeration, and by which violates other's moral right, the expression can be qualified as an unlawful act for it transgresses the limits as an opinion expression.

Meanwhile, subject of public interest such as speech and behavior or relationship in public realm, which belong to a public figure such as politician or government official, should be more widely opened, verified and be allowed to be questioned, due to its social influence. Therefore, unless criticizing expression is deemed to be malicious or considerately deprived of appropriateness, it is not construed as tort nor establishing liability. Furthermore, members of the National Assembly, as representatives of the people, enjoy freedom of speech remarkably different from that of common government official, by being provided with extensive authority on legislation and government control, and moreover immunity to properly perform one's duties. Therefore, criticism of his actions in public realm should also be more widely accepted.

When deciding whether an action constitutes tort of expression of opinion, not only the content and mode of corresponding expression but also the circumstances where it was made must be considered.

[2] In a case where: (a) Party A, a member of the National Assembly announced a statement that includes "At clean seashore of Baengnyeongdo where souls of 46 soldiers of Cheonan Ship lie stands Party C, a member of the National Assembly, who is a symbol of Pro-North Koreans", criticizing Party B who was then the mayor of Incheon; and (b) Party C subsequently demanded alimony on grounds that the expression above infringed personal rights, although the expression 'symbol of Pro-North Koreans' in the statement above is construed as an insulting remark as it is deemed to signify 'representative figure who follows North Korea unquestioningly', the Court finding that the judgement of the lower court has committed misunderstanding of the law about establishment of tort since: (a) the lower court deemed that the expression above constitutes tort, despite that it is difficult to consider that Party A calling Party C as 'symbol of Pro-North Koreans' falls under insulting and despising remarks and therefore passes the bounds of expression of opinion, by taking account of the following: (i) as it seems that Party A tried to criticize political activities or ideology of Party C and therefore arouse critical opinion of local people against Party B, the mayor of Incheon, it is difficult to assure that Party A had malice to make an insulting and despising personal attack against party C in order to offer contempt; (ii) criticism or attack on activities in public realm or political ideology was predictable inasmuch as Party C was then member of the National Assembly; and (iii) with respect to Party A having criticized Party C through the statement above, there was sufficient opportunity for Party C to defend, refute and be evaluated by the people via political debate.

04 Supreme Court Decision 2016Du47857 Decided September 26, 2019

Cancelation of retrial on correction for discrimination

Main Issues and Holdings

[1] In a case necessary to determine whether discriminatory treatment to fixed-term employees existed, whether it is possible to set up a non-existent employee in the office engaging in same or similar duties (passive)

[2] In a case where the fixed-term employee claims for discriminatory treatment on wages solely because of being a fixed-term employee, compared to its comparative employee, demanding correction, how to decide whether the unfavorable treatment existed

[3] In a case deciding whether the disadvantageous treatment existed based on each category not subsections of the wage, whether the existence of a rational grounds should be determined based on each category (affirmative) / In this case the meaning of not holding rational grounds and how to determine whether rational grounds exist

Summary of Decision

[1] Considering Article 8(1) of the Act on the Protection, etc. of Fixed-term and Part-time Employees (hereinafter "Fixed-term Act") and the purpose of the Fixed-term Act to rectify existing irrational discrimination towards fixed-term employees, an employee engaging in same or similar duties in the purpose of comparing with the fixed-term employee to decide the existence of the discriminatory treatment, should be

selected among those without an employment contract with a fixed-term, and such employee does not need to work in the said business or workplace but cannot be non-existent in the organization of office.

[2] In a case where the fixed-term employee purports discriminatory treatment compared to its comparative employee, solely because of being a fixed-term employee, and demands correction, in principle the existence of the discriminatory treatment should be determined by comparing the subsections of the wage of the fixed-term and the comparative employee at which the former purports as discriminatory.

However, if the wages of the fixed-term and comparative employee consists of different subsections, or if the fixed-term employee received advantageous treatment in a certain subsection in return of the discriminatory treatment compared to the comparative employee, accordingly comparison based on subsection becomes difficult, or if an inappropriate special occasion exists, then the interrelated subsections should be categorized and the existence of the discriminatory treatment should be determined by comparing the wages of each category that the fixed-term and comparative employee received. In this case, the following but not limited should be aggregated, taken in to account rationally and objectively: (i) grounds for payment, object and property for each subsection of the wage the comparative employee received; (ii) grounds for composition of subsections and calculation of the wage that the fixed-time employee received; (iii) grounds or details why a certain category of wage was not or less paid to the fixed-time employee; (iv) practice of wage payment.

[3] Considering Article 2(3) of the Fixed-term Act stipulating disadvantageous measures in working conditions other than wages without rational grounds as discriminatory treatment, in the case of determining discriminatory treatment based on categories not subsections, whether rational grounds exist in each category must also be considered.

The case of not having rational grounds means that the necessity of treating fixed-time employees differently is not recognized, or nevertheless the measures and degree is inappropriate. Whether rational grounds exist should be determined, based on the content of the discriminatory treatment that has been problematic in individual matters and the circumstances the employer regarded as grounds for disadvantageous treatment, by comprehensively considering the following: (i) actual purpose of payment; (ii) relationship with the properties of employment status; (iii) content, extend, authority, responsibility of the work; (iv) intensity, extent, and quality of labor; (v) wage or other working conditions.

05 Supreme Court en banc Decision 2015Du49474 Decided November 21, 2019

Revocation of Sanction Orders

Main Issues and Holdings

[1] Whether programs subject to review of impartiality and public nature under the Broadcasting Act are confined to "news reporting programs" (negative)

[2] Meaning of objectivity, impartiality and balance as stated under Article 6(1) of the Broadcasting Act and Articles 9(1) and (2) and 14 of the former regulations concerning review of broadcasts and meaning of "socially disputed issues or matters of fierce controversy"

[3] Whether the characteristic of broadcasting medium, channel and program has to be considered when determining whether a broadcast content is impartial and of public nature (affirmative)

[4] Whether a broadcast content illustrating defamatory facts about public figures subject to historical evaluation constitutes a breach of Article 20(2) of the former Review Regulations (negative in principle) and where the statement is concerned with the public interest and true, or there are considerable reasons to believe in its veracity, whether the said broadcast content is subject to sanctions measure as prescribed in Article 100(1) of the Broadcasting Act (negative)

Meaning of "only when the purpose is for the public interest" and "true facts"

Whether defamation and insulting remarks that do not contain statement of facts can be subsumed under the violation of Article 20 of the former regulations concerning review of broadcasts prohibiting defamation (negative)

[5] In a case where: (a) Broadcaster A, an incorporated foundation that operates a public-access television channel as a program-providing business entity under the Broadcasting Act, ran [(Program Title 1 Omitted)] and [(Program Title 2 Omitted)], which are the documentaries produced by the Incorporated Association C, a viewer, on dozens of occasions; (b) the Korea Communications Commission issued a disciplinary action and warning against the person related to the relevant broadcast program pursuant to Articles 100(1)3, 100(1)4 and Article 100(4) of the Broadcasting Act on the grounds that each of the said broadcast program violated Articles 9(1) and (2) and Article 14 on objectivity and impartiality and Article 20(2) regarding defamation of dead person in the former Review Regulations (amended by Korea Communications Standard Commission Regulation No. 100, Jan. 15, 2014), the case holding that: (a) the deliberation on objectivity, impartiality and balance of a broadcast program based on its overall impression conveyed by taking into consideration the characteristic of the said broadcast program in terms of medium, channel and program reveals that: (i) readily concluding that each of the said broadcast programs violated the obligation to maintain objectivity, impartiality and balance under the former Review Regulations by having either distorted the truth or failed to reflect the opinions of the relevant parties in a balanced manner is difficult; (ii) each of the said broadcast programs may not be considered to have violated Article 20(2) of the former Review Regulations stipulating defamation of decedents and it is infeasible to impose sanctions measure pursuant to Article 20(3) of the former Review Regulations.

Summary of Decision

[1] The Broadcasting Act delegated to the Korea Communications Standards Commission the power to deliberate on impartiality and public nature of the broadcasting sector. Accordingly, regulations concerning the review of broadcasts demand impartiality and objectivity and adopt these two values as standards for deliberation. As such, broadcasting programs subject to deliberation are not deemed to be confined to news reports.

[2] A comprehensive consideration of the legislative intent of Article 6(1) of the Broadcasting Act and Articles 9(1) and (2) and 14 of the former regulations the review of broadcasts (amended by Korea Communications Standards Commission Regulation No. 100) reveals that: (a) the term "objectivity" means non-distortion of facts and reporting of facts as accurately as possible based on objective facts that can be substantiated by evidence; (b) the term "impartiality" refers to delivering a wide range of views and opinions on socially disputed issues or matters of fierce controversy free from bias or predisposition; and (c) the term "balance" denotes unprejudiced treatment of facts by providing substantially balanced opportunities in consideration of the social influence of the parties concerned and/or the object of broadcasting, the nature of the matter in question and the characteristic of the relevant program, instead of quantitative balance, which indicates an equitable allotment of time and importance for each issue. Here, the expression "socially disputed issues or matters of fierce controversy" stands for issues over which members of society are largely divided in their position or opinion to the point that they gained considerable social traction, or matters of intense multisided conflicts of social interests.

[3] [Majority Opinion] A deliberation on the objectivity, impartiality and balance of a broadcast content by applying a one-size-fits-all standard, without factoring in particular difference in social impact of the broadcast content, risks violating the intention of the Broadcasting Act, which is to promote qualitative enhancement of the public life and ensure diversity of broadcasts at the same time by differentiating the content of regulations upon distinction of medium, channels and broadcast topics and pursuing broad objectives via each broadcasting programs, and imposing excessive restrictions on the role of broadcasts, which is to create the impartial sphere of public opinion. As such, when deliberation on the impartiality and public nature of a broadcast content, characteristics of each medium, channel and program have to be taken into account.

We elaborate on this further below.

In deliberating on the objectivity, impartiality and balance of broadcasts, the Korea Communications Standards Commission has to sufficiently review the degree and scope of influence of the broadcast medium or channel that aired the relevant broadcast program on the public life, public sentiment and formulation of public opinion and exercise caution so as not to infringe on the autonomy, expertise and diversity of a broadcast medium or channel. Unless the degree or scope of the influence of the broadcast medium or channel that aired the relevant broadcast program on the public life, public sentiment and formulation of public opinion is profound, and instead, if the said broadcast medium or channel mainly contributes to enabling the exchange of diverse information and opinions, easing the standards of review of the objectivity, impartiality and balance of broadcasts is reasonable. What it means to mitigate the standards of review is to lighten the Korea Communications Standard Commission's review of whether the broadcast content is in compliance with the regulations concerning the review of broadcasts (hereinafter "Review Regulations") on objectivity, impartiality and balance. This means that whether a broadcast content is in breach of the objectivity, impartiality and balance standards under the Review Regulations has to be recognized conservatively. Such easing of regulations is intended to respect the relevant broadcast program's autonomy, expertise and diversity as much as possible so as to strengthen protection of broadcast and press.

Broadcast programs produced by viewers are intended to advance the public nature of broadcasting that formulates diverse social views reflecting the understanding and perspectives of the minority. Limited in technical skills, assets and the amount of accessible information, programs produced by viewers are bound to fall short of expertise and popularity. This restriction may be offset by engaging viewers with different various opinions in the production and airing of broadcast programs by bringing in their own perspectives. As such, broadcast programs produced by viewers are naturally distinguished from those produced by broadcasters in terms of the level of expectation for veracity and credibility of the broadcast content and the degree of social influence. For this reason, the deliberation on the objectivity, impartiality and balance of broadcast programs produced by viewers needs to ease standards of review compared to those applied to programs directly produced by broadcasters.

Considering that broadcast programs on news reports, etc. (hereinafter "news reports programs") have a direct impact on the formulation of not only individual citizens' opinions but also public opinion, a more demanding standard of impartiality and objectivity as stated in Article 6(1) of the Broadcasting Act is required. On the other hand, programs in the fields of documentaries, knowledge, life, culture, etc., which are intended for the furtherance of public knowledge and education of the citizenry (hereinafter "culture programs") and programs in the fields of entertainment, including soap operas, movies, sports, etc., which are intended for the cultivation of public sentiment and diversification of leisure activities (hereinafter "entertainment programs") are not as influential as news reports in terms of the formulation of public opinion. As such, when the Korea Communications Standard Commission reviews on whether a specific culture program or entertainment program breached the obligation to maintain objectivity, impartiality and balance, it has to adopt standards of review that are distinguished from those applied to news reports programs.

[Dissenting Opinion by Justice Jo Hee-de, Justice Kwon Soon-il, Justice Park Sang-ok, Justice Lee Ki-taik, Justice Ahn Chul-sang and Justice Lee Dong-won] To understand the meaning of the Majority Opinion's expression "comparatively eased standard of review" as calling for determination of violation of the obligation to maintain objectivity, impartiality and balance more rigorously is merely the repetition of the already-established Supreme Court legal doctrine, i.e., the principle of rigorous interpretation of the applicable provisions of disadvantageous administrative disposition. The meaning of "eased standard of review" is translated into either strengthening the degree of burden of proof borne by the Korea Communications Standard Commission regarding the existence of dispositive grounds or demanding to factor in the exercise of discretion when determining the severity of sanctions measures. Hence, without postulating a new concept of "eased standard of review," the very intention to ease the standard of review can be sufficiently fulfilled within the bounds of the established legal doctrine concerning revocation litigation.

Inasmuch as there is no substance of eased standard of review nor is its independent meaning existent, the deliberation on broadcast programs pursuant to the Majority Opinion's approach would largely focus on which medium, channel, and program will be subject to an eased standard of review.

The Majority Opinion proposes (i) how much influence a medium conveys; (ii) whether viewers are engaged in the production of a program; and (iii) whether the program under review constitutes a culture and/or entertainment program as the criteria for the application of eased standard of review. However, these simple criteria alone do not provide any plausible explanation for which program is subject to the application of the eased standard of review.

Furthermore, according to such conclusion of the Majority Opinion, the determination on whether a certain program violated the Review Regulations depends on the influence of a specific medium, channel and program. This is tantamount to condoning and justifying an administrative agency's arbitrary disposition, which is categorically in breach of the constitutional principle of rule of law.

In addition, there is no way of applying a comparatively eased standard of review since there is no set standard with respect to when to apply a

divergent standard of review based on the characteristic of each broadcast program.

As above, a deliberation in accordance with a comparatively eased standard of review is unacceptable as it is against the rule of law.

[4] Even though the content of broadcast material carried defamatory statements about a public figure who is subject to historical evaluation, the said broadcast content may not be said to have violated Article 20(2) of the former regulations concerning the review of broadcasts (amended by Korea Communications Standard Commission Regulation No. 100, Jan. 15, 2014) (hereinafter "former Review Regulations") unless otherwise stated. Where the statement is concerned with the public interest and is true, or there are considerable reasons to believe in its veracity, the said broadcast material may not be subject to sanctions measure as stipulated in Article 100(1) of the Broadcasting Act by delegation of Article 20(3) of the former Review Regulations.

Here, the expression "only when the purpose is for the public interest" requires that the stated facts are considered to be related to the public interest from the objective perspective and the perpetrator stated the facts for the sake of the public interest, meaning that if the perpetrator's principal motive is related to the public interest, it is okay if there is an ulterior motive or the purpose of self-benefit incidental to the public interest. The term "true facts" indicates facts whose core part conforms to objective facts in light of the spirit of the content as a whole, and it is fine to have subtle difference in detail from the truth or moderate exaggeration.

Also, defamation and insulting remarks have to be distinguished and treated differently. Insulting remarks or vulgar language that has nothing to do with statement of facts may count as violating Article 27(2) of the former Review Regulations stipulating "broadcast shall not induce a feeling of aversion among viewers by using obscene expression, etc.," but may not be subsumed under the violation of Article 20 of the former Review Regulations.

[5] [Majority Opinion] In a case where: (a) Broadcaster A, an incorporated foundation that operates a public-access television channel as a program-providing business entity under the Broadcasting Act, ran [(Program Title 1 Omitted)] and [(Program Title 2 Omitted)], the documentaries produced by the Incorporated Association C, a viewer, on dozens of occasions; (b) the Korea Communications Commission issued a disciplinary action and warning against the person related to the relevant broadcast program pursuant to Articles 100(1)3, 100(1)4 and Article 100(4) of the Broadcasting Act on the grounds that each of the said broadcast program violated Articles 9(1) and (2) and Article 14 on objectivity and impartiality and Article 20(2) regarding defamation of dead person among the former Review Regulations (amended by Korea Communications Standard Commission Regulation No. 100, Jan. 15, 2014), the case held as follows: (a) each of the said broadcast programs was aired on for-profit non-terrestrial networks and the public-access channel, where viewers' free access is restricted, and was history documentary programs produced by viewers; (b) thus, it is reasonable to apply a comparatively eased standard of review, as opposed to those that are applied to broadcast programs aired on freely accessible broadcast programs, programs that are directly made by broadcasters, and news reporting broadcasts, when reviewing on objectivity, impartiality and balance of the broadcast contents; (c) the deliberation on objectivity, impartiality and balance of a broadcast program based on its overall impression conveyed by taking into account the characteristic of the said broadcast program in terms of medium, channel and program reveals that: (i) readily concluding that each of the said broadcast programs violated the obligation to maintain objectivity, impartiality and balance under the former Review Regulations by having either distorted the truth or failed to reflect the opinions of the relevant parties in a balanced manner is difficult; (ii) each of the said broadcast programs is intended for stimulating debates and re-evaluation of historical facts and figures, warranting a conclusion that they are solely for the public interest; (iii) the said broadcast programs are produced on the foundation of the official documents of foreign governments, newspaper articles and interviews with the relevant parties and experts in the field, there are considerable reasons to believe that the facts it is dealing with are true facts, notwithstanding somewhat difference from the truth; (iv) taking into account the foregoing circumstances, each of the said broadcast programs may not be considered to have violated Article 20(2) of the former Review Regulations stipulating defamation of decedents and it is infeasible to impose sanctions measure pursuant to Article 20(3) of the former Review Regulations; (v) nonetheless, the lower court determined otherwise, and in determining so, it erred by misapprehending the relevant legal doctrine.

[Dissenting Opinion by Justice Jo Hee-de, Justice Kwon Soon-il, Justice Park Sang-ok, Justice Lee Ki-taik, Justice Ahn Chul-sang and Justice Lee Dong-won] The dispositive grounds for each of the above sanctions measures are based on the argument that the broadcast content fell short of the objectivity, impartiality and balance standards and violated obligation to respect the honor of the deceased, not because each of the said broadcast programs deprecated President Rhee Syngman and President Park Chung-hee. Yet, the materials cited by each of the abovementioned broadcast programs were sorted out from a wide range of extensive materials on the two historical figures, Rhee Syngman and Park Chung-hee, to specifically suit the production purpose. Besides, among the selected materials, the content of those in dissonance with the production purpose was omitted, and only the part that appears to be in harmony with the production purpose was excerpted and edited to make it look as if that is the only truth, to say nothing of vulgarity and indecency of the language used therein. As such, each of the said broadcast programs is lack of even a minimum level of objectivity, impartiality and balance required of broadcast programs and fails to observe the obligation to respect the honor of the deceased. The insult and mockery against the decedents may not be considered as what is "solely for the public interest." Thus, the lower court did not err in determining that each of the said sanctions measures was lawful.

(Source: eng.scourt.go.kr)

06 Constitutional Court Decision 2016Hun-Ma945 Decided February 27, 2020

Constitutionality of Article 26(3) of the Passport Act, etc.

Main Issues and Holdings

A. Whether petition for judicial review of Article 29(1) of the Enforcement Decree of the Passport Act (amended by Presidential Decree No. 27166, May 13, 2016; hereinafter "enforcement decree of this case") is qualified for directness of breach of fundamental rights (negative)

B. Whether Article 26(3) of the Passport Act (amended by Act No.12274, Jan. 21, 2014; hereinafter "penalty provision of this case"), which punishes act of visiting, etc. tourism-restricted country without permission of exceptional use of passport from the Minister of Foreign Affairs, knowing it has been notified as tourism-restricted country, infringes claimant's freedom of residential mobility contrary to principle of the proportion (negative)

Summary of the Decision

A. Breach of fundamental rights claimant argues arises only when the Minister of Foreign Affairs exercises refusal pursuant to the enforcement decree of this case, and does not constitute exception where directness is approved, therefore petition for judicial review of the enforcement decree of this case is unjustified as it lacks directness of breach of fundamental rights.

B. In dangerous circumstances overseas such as a natural disaster, war, internal disturbance, revolt, terror, etc., responding to damages on the lives, physical safety and property of people ex post is limited, and it is difficult to prevent events ex ante in a foreign country where Korea's sovereignty does not reach. Moreover, dangerous circumstances overseas can have a huge impact on country and society via diplomatic disputes, disasters or diffusion of infectious disease.

Therefore, enforcement decree of this case purports to protect the lives, physical safety and property of people from dangerous circumstances overseas and prevent spill-over effect from foregoing situations that might affect country and society. The legitimacy of its legislative purpose and its appropriateness of means are justified.

As overseas travels have increased and international terrorism have come to the fore as a serious global issue, it has become impossible to alleviate damage only with ex post measures for protection of Korean nationals residing abroad. In particular, in Afghanistan hostage crisis in 2007, there had been a system that informed dangerous circumstances overseas but could not prevent the foregoing crisis. This became a motivation to implement penalty provision of this case in order to reinforce effectiveness of tourism-restriction policy.

The penalty clause of this case intends to use punishment as means to reinforce its warning function. Also, a measure in the extent that is able to prevent the deviation of minorities and the imitation of other people is necessary. Therefore, it is difficult to achieve the similar level of legislative purpose as the penalty clause of this case without imposing punishment.

If obtained permission from the minister of foreign affairs, the capability of punishment is restricted so that being under criminal disposition by this penalty clause is unavailable. When violated, the severity of punishment is relatively minor.

Thus, the penalty clause of this case does not go against the least infringement principle.

The damage caused by a foreign disaster that could be inflicted upon individuals, country, and society is significant, however the disadvantages due to the penalty clause of this case is moderated, accordingly it does not go against the fair balance principle.

Thus, the penalty clause of this case does not infringe the freedom of movement and residence by violating the proportionality principle.

Recent Events

The Republic of Korea for Definite Changes in 2020!

Legal Administration Centered on Human Rights · Public Welfare and Reform of the Prosecution Service on behalf of People

- The Ministry of Justice ("MOJ"), in response to the demands of the era calling for the "reform of authorities", established and amended the laws last year on high-ranking government officials corruption investigations agency and reform of investigative power for the first time ever since Korea was liberated so as to pave the way for preparing an institutional basis for the establishment of a new criminal justice system.
  - Moreover, the MOJ strengthened support for the socially vulnerable and enacted the Regulation on Investigation Procedures for Protection of Human Rights so as to realize the value of human rights all throughout the legal field.
  - The MOJ able to take a step closer to a society where all of us prosper through the amendment of the Act on Ownership and Management of Condominium Buildings for youth and commoners and strict enforcement of measures against power trips.
- However, commercial law-related major bills on the fair economy have been tabled in the National Assembly for a long time without being enacted into law; as such, there is still much room for improvement for protection of human rights and public welfare.
- In 2020, The MOJ will ▲complete the reform of the Prosecution Service and establish a criminal justice system; ▲promote steady public welfare and pursue respect for human rights; and ▲closely examine the system designed for ensuring a fair and just rule of law so as to make definite changes that the public can feel.

The Ministry of Justice will do its best to prevent further spread of COVID-19 and take prompt and stern actions accordingly in response to the outbreak by taking the public safety as a priority

- The MOJ, which oversees the Immigration Service, has been actively dealing with the outbreak of COVID-19 at each stage of the process such as blocking the transmission route immediately; and it is now actively participating in pan-governmental efforts for public safety by conducting epidemiological investigations and distributing health products in normal ways including facial masks so as to prevent further spread of infections.
- To prevent the inflow of infections into Korea, the MOJ has actively cooperated with the health authorities in the operation of 'special entry procedures' such as ①bans on the entry of foreigners considered improper to get admitted (February 4, 2020); ②and restrictions on the entry of foreigners with passports issued by Hubei, China or visas issued by the Korean Consulate General in Wuhan who are likely to cause further spread of infections (February 4, 2020).
- In an effort to prevent further spread of infections to the community, the MOJ has taken actions accordingly by ①suspending group education for foreigners (January 28, 2020); ②providing interpretation for Call Centers at Disease Control and Prevention (January 2020); and ③ placing limits on visits to inmates at all national correctional and protective facilities (February 24, 2020).
- To ensure that national quarantine system and public safety work properly, the MOJ has ordered the Prosecution Service to promptly and sternly deal with ①acts of intentional and systematic refusal and interruption of epidemiological investigations conducted by the health authorities; and ②acts of disturbances in distribution such as cornering the health products market by taking measures such as compulsory investigations (February 28, 2020).

- In order to prevent further spread of infections among countries and restore international trust, the MOJ has ①banned and suspended departures of 16,903 people, including the self-isolated who had come into contact with the infected (January 24, 2020 to March 3, 2020); and ②restricted those with a body temperature of 37.5 degrees or higher from leaving the country for the US (March 3, 2020).

2020 Work Plan of the Ministry of Justice

1. Complete the reform of the Prosecution Service and establish a criminal justice system on behalf of people

- The MOJ will decentralize the power of authorities in a democratic manner, build a people-centered criminal justice system in which the principles of balance and checks work properly and make the Prosecution Service focusing on human rights and public welfare.
- The MOJ will actively cooperate with related agencies to successfully launch a high-ranking government officials corruption investigations agency and come up with follow-up measures to reform the investigative power on behalf of people.

2. Make a comfortable society for people through steady public welfare

- To protect people against crime and keep them safe, the MOJ will deter the recurrence of crimes by using cutting-edge IT technology in a probation system, to wit: '1:1 electronic supervision,' 'grant of electronic bonds,' expansion of 'supervision for those subject to parole,' and strengthening of 'electronic supervision through the location-tracking system.'
- To ensure stable housing and business operation for commoners, the MOJ will introduce the right of residential tenants to request the renewal of contracts and right of commercial tenants to claim the first option to purchase property and compensation for removal.
- To protect the vulnerable lacking access to financial services, the MOJ will enhance the convenience of their applications for loans when it comes to putting up their movable assets as collateral and limit unfair credit collection attempts made by collectors.

3. Build a tolerant society where human rights of all are respected

- The MOJ will introduce a criminal public lawyer system to prevent human rights violations in the course of investigations and literally promote the right to counsel for all.
- The MOJ will continue to enhance support for victims of crime and introduce a system to protect and support victims, especially those who have fallen victim to stalking and domestic violence.
- The MOJ will strive for social integration by implementing policies for foreigners, such as the introduction of immigration and integration funds based on the benefit principle, which Korean citizens can find understandable so that 2.5 million foreigners and Korean citizens can live in harmony.

4. Make a society with a fair and the just rule of law

- To ensure fair and transparent management of corporations, the MOJ will actively implement the system to improve corporate governance and protect minority shareholders through derivative suits, electronic voting, and cumulative voting and expand and implement class actions suits so as to protect consumers.
- To enhance judicial trust, the MOJ will push for effective measures to root out preferred treatment for lawyers who have once held public offices by extending the period of time for which retired public officials cannot practice law and enhancing punishments for those who get involved in an argument at trial without executing the power of attorney, to wit: 'secret arguments'.

In 2020, the Ministry of Justice will make every effort to follow up on the new criminal justice system so as to have it firmly in place as soon as possible and will do its best to establish a society that people find "reliable" and "safe" by putting "human rights" and "public welfare" as the highest values.

The Ministry of Justice Requires Caution for Unjust Monetary Damage to Illegal Immigrants when Reporting their Voluntary Departure

The Ministry of Justice will deploy immigration special investigation teams in regions, such as Seoul and Busan and crackdown teams across the nation to watch against any profiteering activities that can be done to illegal immigrants who are applying for voluntary departure given the rise in voluntary departures while a number of airline flights are being canceled due to the recent pandemic of coronavirus disease.

In order to encourage voluntary departure of illegal immigrants, the Ministry of Justice has implemented the "virtuous cycle, a management plan for illegal immigrants" to allow re-entry of these immigrants with the C-3 visa 3 to 6 months after from the date of voluntary departure from the period between December 11, 2019 and June 30, 2020.

This plan is cost-efficient and simple in procedure since the person reporting his or her departure only has to either visit the nearest immigration ~~office~~foreigners office with his or her passport, flight ticket, and voluntary departure form or starting from March 11, 2020 , he or she may report his or her voluntary departure online (via HiKorea) and then leave the country through the airport.

Also, if the person filing for a visa at a Korean diplomatic mission in his or her country holds the verification of voluntary departure, evaluation will be conducted without questioning his or her history of illegal residence and re-entry visa will be issued unless disqualified through confirmation of any criminal records and infection.

The number of illegal immigrants voluntarily leaving the country amounted to almost 2,000 during early days of the enforcement but decreased to 1,000 subsequently, and increased again since February 24, exceeding 5,000 until March 1. In addition, for four days from March 2 to 5, more than 6,000 people have reported their departure.

Such increase in voluntary departure accounts to complication of a number of facts, such as visible effects of ongoing "virtuous cycle, a management plan for illegal immigrants" that was intended to reduce illegal immigrants, contain the coronavirus and increase unemployment of foreign residents.

It is confirmed that although the process of voluntary departure and re-entry of illegal immigrants can be proceeded without any intervention from proxy agencies, such as certified public labor attorneys, certain agencies are known to have demanded excessive amount in exchange of issuance of visa as well as guarantee of re-entry.

In the meantime, the Ministry of Justice has set up and operated report centers (~~–0~~2-736-8955, Fax 02-736-8960) at the immigration special investigation teams to prevent illegal immigrants from unfair monetary damage since the implementation of the plan. The Ministry further plans to deploy immigration special investigation teams in regions, such as Seoul and Busan as well as crackdown teams across the nation to launch inspection.

If any profiteering activities are identified, such acts will be strictly taken care of and be notified to relevant organizations, such as the Association of Certified Public Labor Attorney for disciplinary measures.

The Ministry of Justice will translate such plan into various languages of countries where illegal immigrants are from and announce this plan via SNS to prevent infliction of unreasonable damage to voluntary leavers.

Enhanced Punishments for 'Deepfakes'

The Cabinet Passed the Bill on Promulgation of the Partially Amended the Act on Special Cases Concerning the Punishment, Etc. of Sexual Crimes

- On March 17, 2020, the bill on promulgation of the partially amended Act on Special Cases Concerning the Punishment, Etc. of Sexual Crimes, which codifies enhanced punishments for the production and distribution of 'deepfake videos' (passed on March 5, 2020, at the plenary session in the National Assembly) was voted for by the Cabinet (about to go into effect as of June 25, 2020, three (3) months after the date of its promulgation).

* Deepfake video: synthetic media that includes edited or synthesized images and videos of a person's face or body with that of someone else's likeness by using artificial intelligence (AI) technology as computer graphic (CG) is used in films; synthetic media in which a person's face is replaced with someone else's likeness in pornography is usually problematic.

- Although new forms of sexual offenses in the digital realm, using AI technology or the internet have recently increased, such offenses have not been punished timely due to the absence of penal provisions. Otherwise, those offenses are punishable only when the elements of defamation or distribution of obscene materials are met. For this reason, there has been criticism that it is hard to punish such offenses proportionately to their criminal liability.

* Under the Criminal Act, the statutory penalty for defamation based on falsity is 'imprisonment for not more than five years, suspension of qualifications for not more than ten years, or a fine not exceeding ten million won' (Article 307(2)); and the statutory penalty for distribution of obscene pictures is 'imprisonment for not more than one year or by a fine not exceeding five million won' (Article 243), etc.

- In order to make strict responses to relevant offenses, the amendment provides that any person who produces and distributes 'deepfake videos' shall be sentenced to five (5) years or less in prison, or KRW 50 million or less in fines and punishment for those who produce and distribute 'deepfake videos' for gain shall be aggravated to seven (7) years or less in prison.
- Key details of the Amendment

1. The amendment provides that any person who edits, synthesis or processes video · visual image · audio image of a person's face · body · voice in a manner such that it appeals to the prurient interest or causes sexual humiliation, against the will of the person on the video or image, for the purpose of distribution or sale shall be sentenced to 'imprisonment of five years or less or imposition of fines of KRW 50 million or less' (Article 14-2(1)).
2. The amendment provides that any person who distributes · sales · leases · provides or publicly displays · screens (hereinafter "distributes, etc.") the edited · synthesized · processed media under paragraph 1 or any replica thereof or any person who later distributes, etc. such media, even if edit, etc. under Paragraph 1 was not against the will of the person on the video or image at that time, against the will of the person on the video or image, shall be sentenced to 'imprisonment of five years or less or imposition of fines of KRW 50 million or less (Article 14-2(2)).
3. The amendment provides that any person who commits such crime under paragraph 2, against the will of the person on the video or image, for gain through information and communications network shall be sentenced to 'imprisonment of 7 years or less' (Article 14-2(3)).

- The Ministry of Justice will continue to improve laws and systems for the sake of prompt measures in response to emerging digital sex crimes in the future and make every effort not to allow such sex crimes go unpunished.

UNCITRAL RCAP, Life in International Law and UNCITRAL's Role in Current World

Director Athita Komindr
The Head of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific (UNCITRAL RCAP)

Founded by the United Nations (UN) General Assembly in 1966, the United Nations Commission on International Trade Law (UNCITRAL) aims to promote the progressive harmonization and unification of the law of international trade by providing legal frameworks for the resolution of international commercial disputes and preparing and promoting the use and adoption of treaties, model laws, and legislative guides in a number of key areas of commercial law. The Commission's Regional Centre for Asia and the Pacific (UNCITRAL RCAP) was established in 2012 as a result of the joint initiative of the Ministry of Justice and Incheon City to further promote international trade in Asia-Pacific region. Athita Komindr is a legal professional in the field of international trade law and is currently serving as head of UNCITRAL RCAP after carrying out various duties in the field of international trade and commerce, dispute resolution, and the rule of law and social justice.

Tea break with Athita Komindr, Head of UNCITRAL RCAP

- Life in International Law and UNCITRAL's Role in Current World

Q: ***As far as we know, this is your second year as the head of UNCITRAL's Regional Centre for Asia and the Pacific (RCAP). What do you consider to have been the biggest challenge faced by and achievement made by the Asia-Pacific region with regard to UNCITRAL's founding goal - harmonization and unification of international trade law - since your inauguration?***

The United Nations Convention on International Settlement Agreements Resulting from Mediation, or the Singapore Convention on Mediation, is a remarkable achievement for the Asia-Pacific region. An astounding 46 States - including the largest economies in the region such as China, India, the Republic of Korea, and half of the ASEAN Member States - signed the Convention at the Signing Ceremony on 7 August 2019 in Singapore, the highest number of signatories on the opening day of an UNCITRAL Convention, with 6 additional States in the subsequent months. Then in February and March 2020 Singapore, Fiji, and Qatar ratified the Convention. It will thus enter into force in September 2020, only one year from its opening for signature and less than two years from its adoption by the United Nations General Assembly at its 73rd session on 20 December 2018. This is an amazing regional and global feat.

The Singapore Convention on Mediation is a landmark instrument that provides for the first time in history a cross-border enforcement mechanism for settlement agreements that result from mediation. It bridges legal systems reflecting a worldwide consensus beyond cultural differences and perceived challenges because it is the result of a multilateral process to address stakeholders' needs. It brings certainty and stability to the international framework on mediation. Moreover, by enhancing the use of mediation the Convention fosters access to justice, thus promoting more inclusive, prosperous, and sustainable international trade relationships among States and regions.

Q: ***We understand that promoting harmonization and unification of international trade law has been one of the main objectives of UNCITRAL since its establishment. In light of that goal, would there be new dimensions added to the role of UNCITRAL, especially the RCAP, as there have been many recent changes in the international trade environment?***

Doing business in the digital economy has recently become a primary focus for UNCITRAL's forward working plan. In 2018, the Commission mandated the Secretariat to carry out exploratory work on legal aspects related to the digital economy. The Secretariat is thus consulting with various governments, business representatives and legal experts across the world on legal instruments or innovations that might be needed to facilitate international business in the digital economy such as providing legal certainty for the parties to data transactions for commercial purposes, the legal validity of actions of artificial intelligence systems and associated liability, and the tokenization of assets using distributed ledger technology. To support the inclusion of these topics in the forward work plan, the Secretariat is also developing a legal taxonomy of key emerging technologies and their applications driving the digital economy, along with undertaking an appraisal of UNCITRAL existing texts to determine how they apply to those technologies and applications.

In addition, UNCITRAL covers the digital economy's application to the B2G environment/public procurement, of which KONEPS is an excellent example.

UNCITRAL RCAP contributes to UNCITRAL's efforts on the digital economy in the Asia Pacific region by supporting consultations with stakeholders on topics for the forward work plan as well as technical assistance and capacity-building activities. For example, in September 2019 UNCITRAL RCAP, with the support of the Ministry of Justice and Incheon Metropolitan City, organized the inaugural Incheon Law and Business Forum, which explored developments and challenges to diverse stakeholders in the digital economy along with relevant legal issues. This was the first occasion where UNCITRAL's digital economy agenda was discussed among representatives from business, legal, and government sectors from the Asia Pacific region, and we look forward to hosting similar events in the near future to further UNCITRAL's work in this area.

Q: ***From our knowledge, UNCITRAL RCAP handles several issues to address UNCITRAL's goal. If you were to choose one that UNCITRAL RCAP is paying particular attention to, which issue would it be?***

The mandate of UNCITRAL RCAP comprises multiple dimensions such as delivery and support of initiatives aimed at promoting legal certainty in international commercial transactions and raising awareness and promoting effective understanding, adoption and use of international trade norms and standards, in particular those elaborated by UNCITRAL. As many States in Asia-Pacific are developing, land-locked, or small island States, legal obstacles to international trade have a particularly severe effect on them. RCAP thus aims to service these States and provide capacity-building and technical assistance on commercial norms and legal standards so as to enhance inclusive and prosperous international trade relationships, with the goal of achieving sustainable development for all.

Q: ***As a legal expert with extensive experience in both international and government organizations, how has that experience helped you to carry out the role as the head of UNCITRAL RCAP effectively?***

I started my government career in Thailand immediately upon graduating from law school in the United States, meaning I had to very quickly transition from student life to civil service. The "soft skills" I developed as a government official serve me well as a United Nations officer. Examples include strong teamwork, appreciating cross-generational and cross-cultural differences of colleagues, representatives of member States, and external partners, listening carefully, communicating clearly, and asking clarifying questions to ensure that everyone is on the same page. As for the "hard skills," my background in public international trade law and multilateral dispute settlement and negotiations is invaluable as it is the backdrop for the private international commercial legal framework that UNCITRAL RCAP helps promote in the region.

Q: *What has been your most memorable achievement thus far as the head of UNCITRAL RCAP?*

One of my favorite and rewarding experiences is working with our interns. They come from all over and are truly the world's next generation of legal thinkers. They bring so much cheer, fresh perspectives, and technological prowess to our office. I remember one of them saying: "I want to be you when I grow up." That might make some people feel a bit "senior," but my colleagues and I are honored that our interns choose to join UNCITRAL RCAP at such an exciting chapter of their professional development.

Q: *There exist many different views on issues discussed in UNCITRAL, such as those regarding the effectiveness and efficiency of ISDS. Could you share information on these developments, including how they are being addressed by UNCITRAL Member States and the role of the Secretariat?*

The reform of investor-State dispute resolution (ISDS) has been on the agenda of UNCITRAL since 2017, when it entrusted its Working Group III with a broad, three-phase mandate to work on ISDS reform. In discharging that mandate, the Working Group would proceed to: (i) identify and consider concerns regarding ISDS; (ii) consider whether reform was desirable in light of any identified concerns; and (iii) if the Working Group were to conclude that reform was desirable, develop any relevant solutions to be recommended to the Commission.

Most recently, the Working Group met in Vienna in October 2019 and January 2020 for the 38th session and the resumed 38th session respectively to embark on its third phase of its mandate, to discuss reform solutions. At the 38th session commencing in mid-October 2019, the Working Group began its work to provide guidelines for the preparation of instruments for a code of conduct for arbitrators and adjudicators, the regulation of third-party funding of investment disputes and the establishment of an advisory centre for parties involved in ISDS cases. Thereafter, at the resumed 38th session held in January this year the Working Group continued to make steady progress towards the reform of the current ISDS system. More than 400 delegates representing 106 States, with some States participating in Working Group discussions for the first time along with 66 expert observer organizations, deliberated on the introduction of an appeal mechanism to ensure correctness and consistency of decisions, the possibility of establishing a standing multilateral investment court with judges as well as new approaches in the selection and appointment of ISDS tribunals, to address concerns identified in the first two phases of the mandate.

To facilitate the work of Working Group III, the Secretariat is undertaking a variety of different tasks and preparatory work, including preparation of studies, reports and draft texts; legal research; drafting and revision of working papers and legislative texts; reporting on Working Group meetings; and providing a range of administrative services for the Working Group. For instance, the Secretariat has recently released a questionnaire to assist in the preparatory work on the establishment of an advisory centre on ISDS and is also organizing webinars on this, the multilateral instrument, and other topics. In addition, the Secretariat is conducting online briefings with States in various regions to update on Working Group III developments. UNCITRAL RCAP assisted these efforts by co-hosting with the Ministry of Justice an Asia-Pacific regional webinar. Details can be found at:
https://uncitral.un.org/en/working_groups/3/investor-state

Q: *More and more women are actively participating in international organizations. As a woman with a successful international career, what advice would you like to give to women who want to become legal professionals, especially those who wish to perform at an international level?*

I am immensely honored and humbled to be UNCITRAL RCAP's first female head, also at the same time as the first female Secretary of UNCITRAL, Ms. Anna Joubin-Bret. My advice to new generations of women legal professionals is that to flourish in this age of globalization and in our diverse, multi-gendered world, embrace your uniqueness and that of others. Strength lies in the acceptance of diversity in all forms: in perspectives, talents, skills, working methods, cultures, gender. But passion, compassion, and perseverance will always take you far. And wherever you may be – in school or your first job – don't be afraid to think outside the box, take on new challenges, make mistakes, and learn from them. Plan ahead but also carpe diem!

Q: *What kind of advice would you give to prospective lawyers seeking to pursue a career in international law, especially international trade law and arbitration?*

I believe both the academic and pragmatic sides of practicing law are equally important in developing one's career. Taking courses in different areas of public and private international law, as well as courses in relevant areas of domestic law, should help build a strong academic foundation. Paper-based or research courses are useful for familiarizing oneself with diverse schools of thought, cutting-edge debates, leading thinkers in the field, and the newest research tools. On the pragmatic side, extracurricular activities such as law review, moot court, and community service are great introductions to the practice of law, as are internships in law firms, government agencies, arbitration/ADR centres, and of course international organizations. I would note that both ITLD in Vienna and RCAP in Incheon have internship opportunities available twice a year, so I would encourage students to keep an eye out for those openings on the UN Careers website and UNCITRAL social media:

LinkedIn: https://www.linkedin.com/company/UNCITRAL/
Facebook: https://www.facebook.com/uncitral/
Twitter: https://twitter.com/annajoubinbret
Soundcloud: https://soundcloud.com/uncitral
UNCITRAL website: https://uncitral.un.org/
UNCITRAL RCAP website: https://uncitral.un.org/en/TA/regionalcentre_asia_pacific

Q: *The coronavirus (COVID-19) pandemic has brought a massive impact on the global economy. Against this backdrop, as the head of UNCITRAL RCAP, do you think this phenomenon could affect the UNCITRAL's effort to harmonize and unify international trade law?*

The COVID-19 pandemic has really brought to the forefront the importance of the digital economy, which as noted earlier has recently become a primary focus for UNCITRAL's forward working plan. The current crisis has made us all realize in a frighteningly concrete way how interconnected and economically interdependent we all are. What happens – or perhaps doesn't happen these days – in one corner immediately affects the other side of the world. For example, you may no longer be able to order your favorite perfume or the latest gadget because flights are restricted.

In this unprecedented context, cross-border harmonization is more important than ever to facilitate necessary and critical commercial transactions. Measures to curb the pandemic have disrupted traditional paper-based approaches to trade, and the solutions developed by UNCITRAL – including most recently in the Model Law on Electronic Transferable Records and the United Nations Convention on the Use of Electronic Communications in International Contracts – are important legal enablers.

I believe that the necessary efforts to mitigate the effects of the crisis are also, unfortunately, likely to result in an unprecedented number of businesses encountering financial difficulty and becoming insolvent. States that have implemented strong and efficient insolvency regimes as a means to prevent or limit the effects of such financial crises will be better-placed to facilitate rapid and orderly workouts for such businesses, with a view to preserving economic value as much as possible. UNCITRAL insolvency instruments – including the Legislative Guide on Insolvency Law and the Model Law on Cross-Border Insolvency – provide the tools to assist States as they help businesses and stakeholders constructively navigate difficult paths such as those that almost certainly lie ahead, and to facilitate overall economic recovery.

With all States experiencing this global phenomenon, my view is that even stronger international support will be garnered for a harmonized legal framework for the facilitation of international trade and investment.

Q: *The level and volume of international trade in the Asia-Pacific region, especially in Korea where UNCITRAL RCAP enters its ninth year of operation, are increasing rapidly and exponentially. In this regard, what role do you look forward for Korea to taking on in promoting the objectives of UNCITRAL?*

As the host country of RCAP, the Republic of Korea has always been one of UNCITRAL's strongest partners and most active participants. With increasing interconnectivity and rising levels of trade in the region, especially in the areas of digital economy and electronic commerce, South Korea's support is critical in ensuring that RCAP can continue to execute its mandate and assist those States that would benefit the most from the progressive harmonization and modernization of international trade and commercial law, particularly developing, land-locked, or small island States. RCAP looks forward to continuing our partnership with the South Korean government, especially the Ministry of Justice and Incheon City, in providing technical assistance and capacity-building for vulnerable States, and raising awareness and promoting effective understanding, adoption and use of UNCITRAL instruments through new and continuous joint activities and flagship events in the region, such as Working Group intersessionals, the Incheon Law & Business Forum, the Trade Law Forum, the Asia Pacific ADR Conference, the ADR Special Session, and other possibilities for deeper collaboration. Thank you.

Infectious Disease Control

Introduction

COVID-19 has been declared a public health emergency of international concern (PHEIC) by the WHO. The Director-General, with a careful but definite tone described the current situation as a pandemic and President Moon raised the threat alert level to the existing highest. This unprecedented urgency could amplify anxiety and chaos within society, but Korea has been marked as one of the model cases in dealing with the issue. International Health Regulations (IHR 2005) emphasized the importance of international cooperation in order to fight infectious diseases. Accordingly, the government of Korea has been taking active measures to reduce the speed and ultimately stop the spread in order to protect people's daily lives.

From Report to Full Recovery

People with a mild fever, cough, or other respiratory symptoms should first call 1339, 1330, 1345, or 120, before visiting hospitals. These call centers are open 24/7 and provide instructions in multiple languages, including Korean, English, Chinese, Japanese, and Vietnamese. Only upon request the person suspected of a case should visit designated clinics for triage. On route, they are advised to wear a mask and use personal means of transportation to prevent possible infection.
Financial support from the government is provided to Korean nationals as well as foreign infected patients. In accordance with Article 67(9) of the Infectious Disease Control and Prevention Act, the state covers all costs related to testing, quarantine, and treatment for COVID-19 when a patient is tested positive for the disease.

Border Actions

Border controls have been emphasized as the center of prevention measures since the earliest stage of the pandemic. The Immigration Act states that the Minister of Justice may prohibit the entry if they are patients with an infectious disease or a person deemed likely to pose a threat to public health (Article 11, Immigration Act).

Immigration Act, Article 11 (Prohibition, etc. of Entry)

(1) The Minister of Justice may prohibit an alien from entering the Republic of Korea if the alien falls under any of the following: <Amended by Act No. 12960, Jan. 6, 2015> 1. A patient with an infectious disease, an addict to narcotics, or a person deemed likely to pose a threat to public health.
Following the advice of the World Health Organization, the Korean government has been trying to minimize the restrictions of international traffic, and instead increased the screening levels as the situation intensified. Passengers are obligated to be screened regardless of their nationals or place of departure. In the early phases, the records of visit

or residence of certain regions prohibited the subjects of the record from entering or categorized them to undergo a stricter COVID-19 test. Confirmed patients found in the screening process are transferred to a hospital and treated immediately. Even in the cases of negative results, the passengers are quarantined or monitored at their stay for two weeks. Along with this, passengers are required to go through a special entry procedure that requires travel record declaration and installations of the self-diagnosis app. Through the app, the health authorities are able to digitally monitor the lower-risk patients and travelers of possible symptoms. These measures are conducted in accordance with the Quarantine Act, Articles 15-17. Since the policies that are being carried out are subject to change depending on the situation, for latest updates visit websites of KCDC and Ministry of Health and Welfare.

Quarantine Act, Article 15 (Quarantine Measures)

(1) The director of the quarantine station may take all or part of any of the following measures for a person infected or suspected of being infected with a quarantinable infectious disease, means of transport, or cargo contaminated or suspected of being contaminated by the pathogen of a quarantinable infectious disease or suspected of being inhabited by vectors of an infectious disease: <Amended by Act No. 13980, Feb. 3, 2016>
1. Isolating a patient infected with a quarantinable infectious disease or a patient suspected of being infected with a quarantinable infectious disease (hereinafter referred to as "patient infected with a quarantinable infectious disease, etc.");
2. Supervising or isolating a person suspected of being infected with a quarantinable infectious disease;
3. Disinfecting, destructing, or prohibiting the movement of cargo contaminated with or suspected of being contaminated with the pathogen of a quarantinable infectious disease;
4. Disinfecting any place contaminated or suspected of being contaminated with the pathogen of a quarantinable infectious disease, and prohibiting or restricting the use of such place;
5. Dissecting any corpse (including any dead fetus; hereinafter the same shall apply) which is contaminated or suspected of being contaminated with a quarantinable infectious disease in order to inspect the corpse;
6. Ordering the head of a means of transport or the owner or manager of cargo to disinfect the means of transport or the cargo, and eradicating vectors of an infectious disease;
7. Medically examining or checking persons deemed necessary to be confirmed whether they are infected with a quarantinable infectious disease;
8. Vaccinating persons who need the prevention of a quarantinable infectious disease.

Article 17 (Supervision, etc. of Persons Suspected of being Infected with Quarantinable Infectious Diseases)
(1) The director of the quarantine station may request the Special Self-Governing Province Governor and the head of a Si/Gun/Gu in which a person suspected of being infected with a quarantinable infectious disease resides or stays after entering the Republic of Korea as provided

for in Article 15 (1) 2 to supervise his/her health status or isolate him/her in facilities referred to in Article 16 (1) or (2).
(2) Where a person suspected of being infected with a quarantinable infectious disease is confirmed as a patient infected with a quarantinable infectious disease or a patient suspected of being infected with a quarantinable infectious disease while he/she is under supervision pursuant to paragraph (1), the Special Self-Governing Province Governor and the head of a Si/Gun/Gu shall promptly take necessary measures, such as isolation, and immediately notify the director of the relevant quarantine station of such fact.

Information Disclosure

One of the most notable policies Korea is currently carrying out is the disclosure of information on the confirmed cases. The purpose of it is to alert people of the possibility of the overlap of the movement paths, but in the meanwhile it has been arousing some concerns about privacy. (The law went through a big change after the MERS outbreak of 2015, and this portion has been one of the important changes.) This process of information disclosure is backed up by articles 6 and 34-2 of the Infectious Disease Control and Prevention Act. The emergency alerts, also known as the 'Safety guidance texts', sends all phones within the reach of the base station of messages that contain information about a newly confirmed patient. Korea recently enhanced the accessibility of the texts by providing English and Chinese translations from the 1330 Korea Travel Hotline app or Emergency Ready App by the Ministry of the Interior and Safety.
The information can include movement paths, transportation means, medical treatment institutions and contacts of patients (34-2 (2), Infectious Disease Control and Prevention Act). Local governments can decide on the range of information to be available to the general public, which is also decided depending on the contact level of each case prior to confirmation. With the recommendations from the National Human Rights Commission, the government has been trying to minimize the risk of specifying individuals. The law also holds the articles that warn public and private institutions from discriminating against the confirmed, for all of these measures are to protect its citizens and residents.

Infectious Disease Control and Prevention Act

Article 6 (Duties and Rights of Citizens)
(1) Where each citizen is isolated and medically treated due to an infectious disease, he/she may be compensated for any damage caused by such isolation and medical treatment. <Amended by Act No. 13392, Jul. 6, 2015>
(2) Each citizen shall have the right to know information on the situation of the outbreak of infectious diseases and the prevention and control of infectious diseases and how to cope therewith, and the State and local governments shall promptly disclose the relevant information. <Amended by Act No. 13392, Jul. 6, 2015>
(3) Each citizen shall have the right to receive the diagnosis and medical treatment of any infectious disease under this Act at a medical institution, and the State and local governments shall bear expenses incurred therein. <Newly Inserted by Act No. 13392, Jul. 6, 2015>
(4) Each citizen shall actively cooperate with the State and local governments that perform activities for the prevention and control of infectious diseases, such as treatment and isolation measures. <Newly Inserted by Act No. 13392, Jul. 6, 2015>

Article 34-2 (Disclosure of Information during Infectious Disease Emergency)
(1) When an infectious disease harmful to citizens' health is spreading, the Minister of Health and Welfare shall promptly disclose information with which citizens are required to be acquainted for preventing the infectious disease, such as the movement paths, transportation means, medical treatment institutions, and contacts of patients of the infectious disease: Provided, That any relevant party with respect to whom there exist any matters inconsistent with the facts among the disclosed matters or who has any opinion on the disclosed matters, may file an objection with the Minister of Health and Welfare.
(2) Necessary matters concerning the scope, procedures, methods, etc., of the disclosure of information as prescribed in paragraph (1), shall be prescribed by Ordinance of the Ministry of Health and Welfare.

Article 4 (Duties of State and Local Governments)
(1) The State and local governments shall respect the dignity and values of patients, etc. with an infectious disease as human beings, protect their fundamental rights, and shall not impose on them any disadvantage, such as restrictions on employment, except by the Acts.

Q&A Section:
Can I be compensated for my economic losses due to COVID-19?

Compensation for Workers

(*Note that foreigners are also eligible for the following compensations)

Case 1. I am currently under a self-quarantine because I have recently been in close contact with someone who has been tested positive for COVID-19. If I cannot go to work in this situation, can I still get my regular wages?

A. When an employee is hospitalized or isolated by the health authorities in accordance with Article 41-2 of the Infectious Disease Control and Prevention Act, the government will provide the employee with a paid-leave allowance or a living expense allowance. Employers that have previously allowed workers to take paid leaves of absence can apply for its allowance to the National Pension Service, and they will be subsidized based on the daily wage of the worker, with the maximum limit of 130,000 KRW per day.

Infectious Disease Control and Prevention Act

Article 41-2 (Employer's Obligation to Cooperate)
(1) Where an employee is hospitalized or isolated under this Act, the relevant employer may grant a paid leave during the period of such hospitalization or isolation, in addition to the paid leave provided for in Article 60 of the Labor Standards Act. In such cases, if the cost of granting a paid leave is subsidized by the State, the employer shall provide the paid leave.
(3) The State may subsidize the cost of granting a paid leave under paragraph (1).
However, if the workers receive paid leaves of absence from their company, they won't be able to apply for the living expense allowance. Only those who have been issued a home isolation notice, followed directions of the health authorities, and did not receive paid leave allowance are qualified to apply for living expense allowance. The amount of the subsidy is arranged by the level specified in the emergency living allowance. For example, to a four-person household with a member in quarantine for more than 14 days, the government would provide 1.23 million KRW per month.

Case 2. Due to COVID-19, my employer forced me to take unpaid leave in order to keep the business afloat. What can I do?

A. An employer may not force an employee to take an unpaid leave or paid annual leave against their will. If an employer does so, suspends the business in order to avoid bankruptcy or prevent the spread of infection, they are required to provide their workers with a shutdown allowance. Employees should be compensated for at least 70% of their average wage (or ordinary wage given 70% of their average wage exceeds the ordinary wage) during the shutdown period, pursuant to Article 46 of the Labor Standards Act. However, in case of a business suspension prompted by a force majeure which includes government's quarantine, the employer does not have to pay the benefits for their business suspension.

Labor Standards Act Article 46 (Shutdown Allowances)

(1) When a business shuts down due to a cause attributable to the employer, he/she shall pay the employees concerned allowances of not less than 70 percent of their average wages during the period of shutdown: Provided, That if the amount equivalent to the 70 percent of their average wages exceeds that of their ordinary wages, their ordinary wages may be paid as their shutdown allowances.

The Natural Wonders of Jeju Island

Jeju Island, the southernmost province of Korea, is a popular destination for both Koreans and foreign tourists year-round. Known for its subtropical climate and well-preserved nature, the island has long served as a haven for those seeking fun and relaxation. Here we take a quick look at the island's three distinct natural wonders -the Halla Mountain, Oreums and lava tubes- and the Olle Trail where one can traverse the three attractions, witness the endless charm of the island and savor the local cuisine, all while traveling by foot.

Gimnyeonggul and Manjanggul Lava Tubes

Jeju island is certainly well known for its beautiful nature but not many are familiar with the existence of magnificent lava tubes created 100 thousand to 300 thousand years ago. Located in the northeast of the island, Gimnyeonggul and Manjanggul Lava Tubes are the most famous caves due to its world-renowned scale and value for academic research. Recognizing its significance, the Korean government designated these lava tubes as natural monuments and moreover in 2007 it was listed as a UNESCO World Natural Heritage site. Originally these two lava tubes were connected but after a cave-in, were separated.

Manjanggul Lava Tube is 7.4km long making it one of the largest lava tubes worldwide. Three entrances exist however visitors have access only to the second entrance and approximately a 1km long path is open to exploration. Many lava tube products such as lava stalagmite and lava stalactite are preserved under superior conditions. It will be an offbeat experience to look around these mystics of nature. Especially the 7.6m tall lava column at the end of the visiting area is known as the tallest in the world.

500m further north from Manjanggul Lava Tube, the snake-like shaped Gimnyeonggul Lava Tube is located consisting of three caves. Unfortunately, due to the extreme level of destruction and danger of collapse, currently visits are not available.

Hallasan National Park

Hanllasan, the tallest mountain in South Korea, bears various vegetation and is a repository of wildlife. Also listed as the UNESCO World Natural Heritage site in 2007, additionally this national park has been certified as the Global Geopark in 2010.

An interesting legend descends related to the formation of Hallasan. Once upon a time there lived Seolmundaehalmang, later known as the goddess of Jeju. She was enormous and a woman of strength. One day she started carrying soil in her skirt and dumping it in the middle of a wide azure sea. Her working very diligently, the form of an island and a mountain was made and this became Hallasan.

Hallasan has such different faces throughout the year, changing its ambiance season by season. The mountain covered in plain white snow in winter, the colored leaves in autumn, the vivid rays of sunlight penetrating trees in summer, the refreshing smell of flowers in spring all arouse astonishment.

There are many climbing and tracking courses with various time spans. Certain courses require reservation beforehand so make sure to check out the website prior to your visit.

Jeju Olle Trail

Despite high availability of convenient transportation methods, walking remains the most intimate and effective way of experiencing locations for many travelers. For people traveling to Jeju that prefer to explore places by foot, Jeju Olle Trail may serve as a perfect getaway from the hustle and bustle of city life. Inspired by the famous pilgrimage path Camino de Santiago in Spain, Jeju Olle Trail is a 425 kilometer-long series of trails that encircles the island along its coastline. The trail's 26 routes, each 10 to 20 kilometers long and varying in levels of difficulty, have been carefully determined to include various natural and cultural attractions throughout the island. Some of the most popular sites located along the trail are Soessokak Estuary where freshwater and the ocean meets, the sun-rising Seongsan Peak and the beautiful aquamarine beaches of Hamdeok and Pyoseon. Fresh seafood and traditional dishes of Jeju found along the way are also musts, as many eateries located near the shoreline offer fish- and shellfish-based soups, roasts and sashimi. The trail is hard to miss once one sets his foot on it, as it is periodically marked by small red and blue-colored

emblems of Gansae horses, a local type of pony whose slow speed symbolizes the trail's philosophy of 'slowing down and having some time to breathe'. For those visiting Jeju to seek relaxation and rejuvenation in nature, walking Olle is an activity they should not miss.

Oreum

Easily noticed while hiking along Olle trails are bulging elevations dispersed throughout Jeju that are a little too high to be considered mere mounds and a little too small to count as mountains compared to Halla Mountain. In fact, each of the bulges itself is a small volcano called an Oreum, a natural product of the volcanic landform of the region. A distinct feature of the Jeju geography, Oreums also made an early appearance in the island's folk culture. According to local legend, goddess Seolmundae Halmang (halmang means "grandmother" in the local dialect) scooped up soil from the ocean and piled it up to create what is now Jeju island. After giving her new creation some thought, Seolmundae found it to be a bit flat and thus decided to stack up a mountain in the middle of the island. As she carried the dirt that would later become Halla Mountain on her skirt, some of it fell and was scattered across the island to form what are now more than 450 Oreums. Oreums now serve as an essential part of the exhibition of Jeju's nature as the various floras inhabiting the hills, such as silver grass and camellias, provide a glimpse of the island's environmental diversity. For locals as well as visitors, Oreums are perfect vantage points where one can enjoy a surround view of the beautiful sceneries of the island after a short hike up the once-volcano hills.

Government Departments

Anti-Corruption & Civil Rights Commission
http://www.acrc.go.kr/eng/index.do
82-44-200-7151~6

Constitutional Court of Korea
http://english.ccourt.go.kr/
82-2-708-3460

Fair Trade Commission
http://eng.ftc.go.kr
82-44-200-4326

Financial Services Commission
http://www.fsc.go.kr/eng/index.jsp
82-2-2156-8000

National Assembly Law Library
http://law.nanet.go.kr/eng/index.do
82-2-788-4111

Judicial Research & Training Institute
http://jrti.scourt.go.kr/
82-31-920-3114

Korea Communications Commission
http://eng.kcc.go.kr/user/ehpMain.do
82-2-500-9000

Korea Consumer Agency
http://english.kca.go.kr/index.do
82-43-880-5500

Korea Customs Service
http://english.customs.go.kr/
82-1577-8577

Ministry of Food and Drug Safety
http://www.mfds.go.kr/eng/index.do
82-43-719-1564/ 82-1577-1255

Korean Intellectual Property Office
http://www.kipo.go.kr/kpo/user.tdf?a=user.english.main.BoardApp&c=1001
82-42-481-5008

Korea Law Service Center
http://law.go.kr/LSW/main.html
82-2-2100-2520
(Ministry of Government Legislation)/
82-2-2100-2600
(Legislative Research Services)

Korea Meteorological Administration
http://web.kma.go.kr/eng/index.jsp
82-2-2181-0900

Korean Bar Association
http://www.koreanbar.or.kr/eng/
82-2-3476-4008

Korean Library Information System Network
http://www.nl.go.kr/kolisnet/index.php
82-2-590-0626

Korean National Police Agency
http://www.police.go.kr/eng/index.jsp
82-182

Ministry of Agriculture, Food and Rural Affairs
http://english.mifaff.go.kr/main.jsp
110 (from Korea) / 82-2-6196-9110 (from overseas)

Ministry of Culture, Sports and Tourism
http://www.mcst.go.kr/english/index.jsp
82-44-203-2000

Ministry of Education
http://english.moe.go.kr/enMain.do
82-2-6222-6060

Ministry of Employment and Labor
http://www.moel.go.kr/english/main.jsp
82-52-702-5089 (National Labor Consultation Center)
82-44-202-7137 (International Cooperation Bureau)
82-44-202-7156 (Foreign Workforce Division)

Ministry of Environment
http://eng.me.go.kr/
82-44-201-6568 / 82-1577-8866

Ministry of Foreign Affairs
http://www.mofa.go.kr/eng/index.do
82-2-2100-2114

Ministry of Gender Equality and Family
http://www.mogef.go.kr/eng/index.do
82-2-2100-6000

Ministry of Government Legislation
http://www.moleg.go.kr/english
82-44-200-6900

Ministry of Health and Welfare
http://www.mohw.go.kr/eng/index.jsp
82-44-202-2001~3

Ministry of Justice
http://www.moj.go.kr/moj_eng/index.do
82-2-2110-3000

Ministry of Land, Infrastructure and Transport
http://www.molit.go.kr/english/intro.do
(Day) 82-44-1599-0001, (Night) 82-44-201-4672

Ministry of National Defense
http://www.mnd.go.kr/mbshome/mbs/mndEN/
82-2-748-1111

Ministry of the Interior and Safety
https://www.mois.go.kr/eng/a01/engMain.do
82-2-2100-3399

Ministry of Economy and Finance
http://english.moef.go.kr/
82-44-215-2114

Ministry of Trade, Industry and Energy
http://www.motie.go.kr/language/eng/index.jsp
82-2-1577-0900 / 82-44-203-4000

Ministry of Unification
https://www.unikorea.go.kr/eng_unikorea/
82-2-2100-5722

National Assembly Library
http://www.nanet.go.kr/english/
82-2-788-4211

National Intelligence Service
https://eng.nis.go.kr/
82-111

National Research Foundation of Korea
https://www.nrf.re.kr/eng/index
82-2-3460-5500 / 82-42-869-6114

National Tax Service
http://www.nts.go.kr/eng/
82-2-397-1200 / 82-1588-0560

Network of Committed Social Workers
http://www.welfare.or.kr/
82-2-822-2643

Public Procurement Service
http://www.pps.go.kr/eng/index.do
82-70-4056-7524

Ministry of SMEs and Startups
https://www.mss.go.kr/site/eng/main.do
82-1357

Statistics Korea
http://kostat.go.kr/portal/english/index.action
82-2-2012-9114

Supreme Court Library of Korea
https://library.scourt.go.kr/base/eng/main.jsp
82-31-920-3612~3

Supreme Prosecutors' Office
http://www.spo.go.kr/eng/index.jsp
82-2-3480-2337

The Board of Audit and Inspection of Korea
http://english.bai.go.kr
82-2-2011-2114

The Supreme Court of Korea
http://eng.scourt.go.kr/eng/main/Main.work
82-2-3480-1100

The National Assembly of the Republic of Korea
http://korea.assembly.go.kr/index.jsp
82-2-788-3656

National Library of Korea
http://www.nl.go.kr/english/
82-2-535-4142

VOD Service for Conferences
http://na6500.assembly.go.kr/
82-2-788-3056/2298

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Ministry of Justice

The Ministry of Justice of the Republic of Korea

is the leading state authority which promotes liberty,

democracy, equality, justice and respect for humanity

through fair and transparent enforcement of law.

Emblem The Republic of Korea government has changed its official "government identity." The new logo conveys the dynamism and enthusiasm of the country with the three colors of blue, red and white. It echoes off Korea's national flag *Taegeukgi* with the *taegeuk* circular swirl and the blank canvas embodies in white. The typeface was inspired by the font used in the "*Hunminjeongeum*" (1446), the original *Hangeul* text, in consideration of the harmony embodied in the *taegeuk* circle. Starting March 2016, the new logo is used at all 22 ministries including the Ministry of Justice and 51 central government agencies.

Ministry of Justice, Republic of Korea

Ministry of Justice

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Focusing on Business and Investment

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