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TABLE of CONTENTS



PRIVATE LAW



1	Supreme Court Decision 2023Da225580 Decided January 4, 2024 [Assignment of Shares] 1
[1]	Whether the provisions concerning agency may be applied <i>mutatis mutandis</i> to quasi-judicial acts such as the “service of a notice of an intent or an idea” (affirmative) Whether an agent’s declaration of intent to act on behalf of a principal may be made in an implied manner (affirmative) and where, even without the agent’s explicit notification, the counterparty either knew or could have known, based on various circumstances, that the agent was acting for the principal, whether the actions of the agent may be considered a valid act of agency (affirmative)
[2]	Standards for distinguishing between an agent and a messenger Whether these standards are applicable in a case where it is disputed that whether a defense counsel, who intervened as an advisory for one party in a series of the processes of negotiations for the conclusion of a contract between the parties concerned, which entails the creation of various rights and duties and legal liabilities, has acted as an agent or a mere messenger (affirmative)
[3]	Meaning of “other general legal affairs” in Article 109 Subparag. 1 of the Attorney-at-law Act, and in a case where attorneys-at-law of a law office, who are considered as one attorney-at-law pursuant to Article 31(2) of the Attorney-at-law Act, have accepted a case brought by parties whose legal interests are directly adverse to one another, whether such a case constitutes the representation of both parties, which is prohibited in principle in accordance with Article 31(1)1 of the Attorney-at-law Act (affirmative)
[4]	In a case where an attorney has violated restrictions on the acceptance of a case under Article 31(1)1 of the Attorney-at-law Act, whether the representation of both parties may be considered valid only for those cases where the principal has given consent pursuant to Article 124 of the Civil Act (affirmative) Where the burden of argumentation and attestation of the existence of the principal’s permission lies (held: an entity who argues for the validity of the representation of both parties), and whether the “consent” of the principal may be provided in an implied manner or by way of retroactive ratification (affirmative)

2 Supreme Court Decision 2023Da283913 Decided January 25, 2024
[Insurance Proceeds] 8

- [1] Cases where the Supreme Court may determine an erroneous application of substantive law, notwithstanding the nonfulfillment of the requirement that an appeal of a small claims court decision or order must be based on a “contravention of a Supreme Court precedent”
- [2] Where a clause in the terms and conditions can be interpreted a single way based on a fair and reasonable reading that takes into consideration the principle of contra profentem and is consistent with the contract’s purpose and the understanding of an average customer, whether the principle of contra proferentem applies (negative)
- [3] In a case where: (a) Party A entered into an insurance agreement with Incorporated Company B, which includes a “reimbursement rider for hospitalization due to disease,” which was of a renewable type, and subsequently filed an insurance claim under the terms of this rider; (b) Company B rejected the claim asserting that the portion of the expenses exceeding the copayment ceiling stipulated by the National Health Insurance Act is a payable benefit under the National Health Insurance Service; and (c) Party A filed a lawsuit seeking payment of insurance proceeds including the portion of the expenses exceeding the copayment ceiling against Company B, the case holding that the amount Party A received as a refund from the National Health Insurance Service may not be considered payable under the rider
- [4] In a case where an appellant did not write a specific and express reason why the lower judgment is in violation of a statute in a final appellate brief, whether the appellant is considered not having submitted a final appellate brief (affirmative)

3 Supreme Court Decision 2018Da206899, 206905, 206912 Decided February 8, 2024 [Wage; Wage; Wage] 15

- [1] Whether the declaration of intention that may be unfavorable to employees should be strictly interpreted with respect to the claim for wages (affirmative)
- [2] Requirements to exclude the application of the provisions on work hours, recess, and holidays stipulated in the Labor Standards Act in accordance with Article 63 Subparag. 3 of the said Act and, in such a case, meaning of “an employee engaged in surveillance work”
- [3] Standard of determining whether wages, in relation to which whether the payment thereof should be made or how much amount thereof should be paid should be determined based thereon after the evaluation of employees’ work performance, correspond to ordinary wages as fixed wages
- [4] Standard of determining whether an agreement on the inclusive



wage system was constituted and, in such a case, requirements to recognize that an inclusive wage agreement was constituted by an implied agreement

- [5] Requirements for a wage payment contract based on the inclusive wage system to be valid

When concluding a wage payment contract based on the inclusive wage system even though it is not the case where calculating work hours is difficult, where legal allowances included in inclusive wages do not reach legal allowances calculated in accordance with the standards stipulated in the Labor Standards Act, the effect of the part relating to a wage payment contract by the inclusive wage system corresponding thereto (invalid) and, in such a case, whether an employer is liable for the payment of legal allowances falling short of the standards to employees (affirmative)

- [6] Where judgments for ordinary wages are subject to the Labor Standards Act, whether the application of the rules of employment or collective agreements to the number of standard hours that becomes the basis of the calculation of an hourly rate of ordinary wages may be allowed (negative)
- [7] Whether additional wages arising from holiday work and extended work may be paid doubly (negative)
- [8] Whether salary workers may claim the difference in weekly holiday allowances on the grounds of an increase in ordinary wages (negative in principle)

4

Supreme Court Decision 2019Da272404 Decided February 15, 2024 [Debt for Credit Guarantee]29

- [1] Method of interpreting a juridical act in a case where an objective meaning is not clearly ascertainable from the language and text declared by the parties concerned, and whether a juridical act has to be construed more rigorously if the subject matter of a juridical act asserted by one party causes a substantial impact on the rights and duties of the other party (affirmative)
- [2] In a case where: (a) the terms and conditions of an export credit guarantee contract concluded between Public Corporation A and Incorporated Company B has a provision stating that “the Bank shall examine a receivable arising from a credit guaranteed loan based on a credit guarantee relationship with reasonable care, as it does for a receivable not secured by a credit guarantee relationship, and strive to preserve the rights specified therein,” and that where the Bank was negligent in taking reasonable care in violation of the above provision, etc., Public Corporation A is released from the obligation to provide a guarantee for the amount of loss increased thereby; (b) Bank C gave a loan to Company B, an exporter, in the manner of negotiating an export account receivable, which is secured by a letter of export credit guarantee issued by Public Corporation A pursuant to the above export credit guarantee contract, and upon the occurrence of an accident insured by the

guarantee, whereby Bank C did not receive payment for export from the importer, Bank C sought Public Corporation A's discharge of obligation to provide a guarantee; and (c) Public Corporation A asserted that its obligation to provide a guarantee was waived, alleging Bank C's violation of a duty to take reasonable care according to the above provision of the terms and conditions in the event of the negotiation of an export account receivable, the case holding that the above provision in the terms and conditions should be construed as stipulating a duty to prevent ex post lending losses, and found the judgment rendered by the lower court erroneous in terms of the application of legal doctrine by having considered the pertinent provision as stipulating a preemptive duty to take reasonable care and concluding that Public Corporation A was released from the obligation for guarantee following the violation of the above provision in the terms and conditions

5 Supreme Court Decision 2023Da272883 Decided February 15, 2024
[Indemnity Amount] 34

- [1] Legal nature of an uninsured motorist coverage rider (held: nonlife accident insurance), and in a case where multiple accident insurance contracts involving an uninsured motorist coverage rider have been concluded for a loss resulting from the same single accident and the sum insured exceeds the actual loss, whether Article 672(1) of the Commercial Act applies *mutatis mutandis* (affirmative) Where multiple insurers are jointly and severally liable for an accident up to their respective policy limits pursuant to the *mutatis mutandis* application of Article 672(1) of the Commercial Act, whether the insurers share a joint and several liability based on separate, distinct obligations (affirmative in principle), and in such an instance, how the insured may seek payment of the coverage amount and how the subrogated insurer, after having paid out the insurance proceeds, may exercise a right of contribution In cases involving double insurance, whether the parties to each insurance contract may set forth methods for the insurer's compensation and apportionment of liability among multiple insurers differently from what is stipulated in Article 672(1) of the Commercial Act (affirmative)
- [2] Whether the indemnification sought by the prior handling insurer from the subsequent handling insurer in a double insurance case, pursuant to the Mutual Agreement Concerning Deliberation on Indemnity Disputes in Motor Insurance and its enforcing bylaw, shares a resemblance with the contribution between insurers with overlapping coverage, who are jointly and severally liable for the payment of the insured amount to the insured based on different legal grounds (affirmative)
- [3] In a case where a debtor made payment of his or her debt, either voluntarily or via a performance assistant, without legal cause, or where a third party made payment of another person's debt



without legal cause, the person who can file an action for restitution of the consideration in unjust enrichment provided as the payment (held: a debtor or third party having made the payment), and where the burden of proof of the payment entity lies (held: the person who files an action for restitution of unjust enrichment based on the premise that the counterparty to the action is the payment entity)

6 Supreme Court Decision 2023Da294791 Decided February 29, 2024 [Lawsuit Seeking Declaration of Nullification of Election] 42

In a case where a political party newly formed by a merger is lawfully established in accordance with the procedures laid out in the Political Parties Act, whether members of the absorbed party automatically obtain membership of the newly formed party (affirmative), and whether this is likewise the case if a City/Do party to which a member of the absorbed party belonged is considered to have been dissolved in accordance with Article 19(4) of the Political Parties Act (affirmative)

7 Supreme Court Decision 2023Da294470, 294487 Decided February 29, 2024 [Claim for Business Expenses; Damages (Etc.)] 48

Meaning of any necessary expenses of which a mandatary may demand reimbursement according to Article 688(1) of the Civil Act (held: any expenses defrayed by the mandatary as deemed necessary with such care as is required of a good manager)

Even if a mandatary violated the duty of due diligence in the process of managing the entrusted affairs, where, after that, the mandatary defrayed any expenses for the management of the entrusted affairs and exercised due care required of a good manager in the process of defraying the relevant expenses, whether the mandatary may demand from the mandator the reimbursement of such expenses (affirmative)

8 Supreme Court Decision 2020Da290569 Decided March 12, 2024 [Damages (Etc.)] 52

[1] Cases where a senior judicial police officer’s decision or disposition made during investigative activities or investigation process are considered unlawful and whether the finding of such unlawfulness is not affected by the prosecutor’s disposition not to charge the suspect or the court’s rendition and finalization of acquittal in the future, for example, on the grounds of insufficient evidence to prove the existence of criminal facts (affirmative)

[2] In a case where a senior judicial police officer’s independent unlawful conduct, such as a minor omission or manipulation of evidence or materials, despite having secured such evidence or materials, that could have impact on the prosecutor’s decision as to whether to apply for a warrant or the judge’s decision on the issuance of a warrant is not admitted, whether a senior judicial police officer’s investigative activities or his or her decision and disposition in relation to “the judge’s decision on the issuance of a warrant” or

“the suspect’s arrest or detention per se as a result of the execution of a warrant” can be considered unlawful (negative in principle)

9 Supreme Court Decision 2023Da301712 Decided March 12, 2024
[Agreed Amount]61

- [1] Requirements for the establishment and regulatory purpose of an unfair juristic act stipulated in Article 104 of the Civil Act
Method of determining whether any remarkable imbalance exists between a benefit and a counterbenefit
Where a party who argues that he or she committed a juristic act under strained circumstances is exempt from any disadvantage that may be gained in a contractual relationship with a third party as a result of the juristic act, whether such exemption from the disadvantage may be evaluated as a benefit of the other party as referred to in the relevant juristic act (negative in principle)
- [2] Meaning of the term “strained circumstances” and method of determining whether the party was under strained circumstances
Where a party who determines that the advantage that he or she may get by failing to stick to a contract far outweighs the disadvantage that he or she may get thereby brings any urgent condition of needfulness upon himself or herself in a relationship with the other party to the contract by committing any act against the contract with the intention of accepting such disadvantage, predicting the occurrence of such disadvantage, whether this may be easily recognized as strained circumstances as referred to in Article 104 of the Civil Act (negative)
- [3] In a case where Party A entered into a contract of sale, selling the above house and land therefor to Stock Company C, which intends to purchase the above house and land therefor and parcels of land adjacent thereto and build a multiunit house, during the period of the housing lease contract concluded between Party A and Party B, in relation to a house owned by Party A, including a special stipulation seen to the effect that “Party A should evict the lessee, and if Party A fails to evict the lessee until the balance payment date, Party A should be liable for the penalty of another real estate sales contract as well as the penalty of the above contract of sale”; however, when Party A was in danger of paying a large penalty as Party B, who terminated the housing lease contract by mutual consent, did not respond to Party A’s request for the delivery of the subject matter of lease, Party A and Party B had a mutual agreement that if Party A receives the balance of the contract of sale, Party A should pay the settlement money upon the delivery of the subject matter, corresponding to ten times greater than the security deposit, as well as the security deposit and moving expenses to Party B; and Party D underwrote Party A’s debt according to such agreement, the case holding that there were errors in the judgment of the lower court, which viewed that no remarkable imbalance exists between a benefit and a counterbenefit by including



the amount equivalent to the penalty whose payment was avoided by delivering the subject matter of the lease according to the above agreement in Party B's benefit, but when considering all the circumstances such as the reason for, and background, bringing Parties A and D to such condition of needfulness, readily concluding that the above agreement was concluded under strained circumstances of Parties A and D is difficult, and thus, the conclusion of the lower court that viewed the above agreement as valid is just

10 Supreme Court Decision 2023Da298670 Decided April 4, 2024
[Agreed Remuneration]68

- [1] Where an act of disposing of both property acquired by residents in North Korea by inheritance, etc. and property acquired as the price for the disposal of the property was done other than through an estate administrator in accordance with Article 15 of the Act on Special Cases Concerning Family Relationship and Inheritance Between Residents in South and North Korea, whether such act should be deemed null and void (affirmative), and whether the aforementioned legal doctrine is likewise applicable even in a case where such juristic act was conducted before the appointment of an estate administrator (affirmative)
- [2] Meaning of the term “the intention of the parties” as referred to in Article 137 of the Civil Act, stipulating the legal doctrine regarding partial nullity
Whether the legal doctrine of partial nullity of a juristic act is applicable in a case where several contracts in full were conducted integrally from the economic and realistic perspective and thus appear to be in one contractual relationship (affirmative)
- [3] Where a contentious case was entrusted to an attorney-at-law, even if there was no explicit agreement entered upon between the parties as to the payment and the amount of remuneration, whether there should be seen to have been any implicit agreement between the parties in relation to the payment and the amount of remuneration (affirmative in principle) and, in such a case, method of determining the amount of remuneration
- [4] In a case where Party B and others, who are North Koreans, subject to the Act on Special Cases Concerning Family Relationship and Inheritance Between Residents in South and North Korea, concluded a mandate contract, by which Law Firm A should handle a claim seeking confirmation of paternity, a claim for recovery of inheritance, etc. against Party C, entrusted by Party B and others, and a contingent fee agreement, by which Party B and others should pay “30% of the total share of inheritance or the amount of money equivalent thereto” as fees contingent on success to Law Firm A; thereafter, as the reconciliation is established among the inheritors of Party C, inherited property was divided into Party B and others, and, in response thereto, Law Firm A demanded the payment of the amount of money, corresponding to 30% of the total share of

inheritance, according to the above contingent fee agreement against Party B and others; however, Party B and others alleged that the above contingent fee agreement corresponds to a legal act done other than through an estate administrator with regard to inherited property, and thus, such legal act should be deemed void in accordance with Article 15 of the Act on Special Cases Concerning Family Relationship and Inheritance Between Residents in South and North Korea, the case holding that in view of overall circumstances, even if the above contingent fee agreement is deemed void, there is room to see that both parties had any hypothetical intention to intend to conclude and maintain the above mandate contract, and there can be seen to have been any implicit agreement between the parties in relation to the payment of reasonable remuneration

11 Supreme Court Decision 2022Da307294 Decided April 16, 2024 [Ownership Transfer Registration] 76

Under a will-substitute trust contract, where a beneficiary before a trustor dies is designated as a trustee, and the sole beneficiary after the trustor dies is designated as a trustee, whether the part where the sole beneficiary after the trustor dies is designated as the trustee violates the Trust Act and thus should be null and void (affirmative) and, in such a case, whether the remaining part should be deemed effective (valid in principle)

Where a trust regarding the part related to a trust for own interest that was effective during the lifetime of the trustor is terminated due to the death of the trustor, a legal relation regarding the devolvement of the remaining property thereof

12 Supreme Court Decision 2019Da261558 Decided April 25, 2024 [Damages (Etc.)] 81

[1] Where an agreed payment for nonperformance of an obligation is extravagant and unconscionable under the law of the United Kingdom, whether such agreed payment corresponds to an unenforceable penalty (affirmative)

Standard of determining whether an agreed payment for the nonperformance of an obligation corresponds to liquidated damages or a penalty and, in such a case, whether “a legitimate interest to compel the performance of contractual obligations of the other party” should be limited to compensation for the maximum amount of estimated damages resulting from a breach of contract (negative)

[2] Whether Article 398(2) of the Civil Act, which stipulates that where the amount of damages determined in advance is unduly excessive, the court may reduce the amount to a more reasonable and appropriate sum, may be included in international mandatory provisions stipulated in Article 7 of the former Act on Private International Law that should govern the corresponding legal relations irrespective of the applicable law (negative)



Whether the application of the provisions of the law of the United Kingdom should be seen to correspond to “an evident violation of good customs and other social order of the Republic of Korea” stipulated in Article 10 of the former Act on Private International Law on the grounds that the amount of damages determined in advance cannot be separately reduced as a result of the application of the law of the United Kingdom, which is the applicable law (negative)

13 Supreme Court Decision 2020Da271650 Decided April 25, 2024
[Reimbursement] 87

- [1] Method of determining the number of working days to calculate an urban day laborer’s lost income based on statistical facts concerning a day laborer’s daily wage
- [2] In a case where: (a) Party A suffered an injury including bone fractures due to a fall while working on a safety restraint net connected to crane hooks; (b) the Korea Workers’ Compensation and Welfare Service admitted the aforesaid accident as an occupational accident and paid temporary incapacity benefits to Party A and filed a lawsuit for reimbursement against Incorporated Company B, the insurer of the crane; and (c) the number of monthly working days of an urban day worker was at dispute, the case holding that, barring special circumstances, it is difficult to recognize the number of monthly working days of an urban day worker in excess of 20 days, but the lower court acknowledged the monthly working days of an urban day worker as 22 days, thereby committing an error based on the misapprehension of legal doctrine

14 Supreme Court Decision 2020Da250561 Decided May 9, 2024
[Lawsuit Seeking Suspension of Copyright Infringement] 91

- [1] Governing law for the issue of copyright succession following the split of a company, which is not stipulated in the Berne Convention for the Protection of Literary and Artistic Works (held: governing law determined in accordance with the private international law of the country where the proceeding has been brought)
 Whether the law of the country where protection is claimed is chosen and applied as the governing law in accordance with Article 24 of the former Act on Private International Law with respect to the establishment and subject matter of copyright, the possibility of the transfer of copyright, and whether any procedure or form is necessary for the transfer and reversion of copyright (affirmative in principle)
 Whether the governing law to be applied to legal relations such as contracts that caused copyright transfer may be decided in accordance with Article 24 of the former Act on Private International Law (negative), and whether the governing law to be applied to such matters needs to be separately determined (affirmative)

[2] Meaning of “the country where protection is claimed” under Article 5(2) of the Berne Convention for the Protection of Literary and Artistic Works to which the Republic of Korea has acceded
 Whether the aforesaid provision takes precedence in cases involving foreign elements related to copyright protection, and the law of the country where protection is claimed (law of the country where copyright has been infringed) accordingly becomes the governing law (affirmative), and whether the governing law, which has been determined in accordance with the private international law of the country where the case is heard, applies to matters that are either excluded from the application or not directly regulated by the said Convention (affirmative)

15 Supreme Court en banc Decision 2020Meu15896 Decided May 23, 2024 [Annulment of Marriage] 99

Whether a person has an interest in seeking confirmation of the nullity of a marital relationship that existed for a certain period of time in the past even after the dissolution of the marriage by divorce (affirmative in principle)

16 Supreme Court Decision 2021Da258463 Decided May 30, 2024 [Compensation for Employee’s Invention] 105

When a compensation claim for an employee’s invention arises (held: when an employer, etc. succeeds to the right to acquire a patent, etc. or the patent right, etc. for an employee’s invention) and where the time for the payment of compensation for an employee’s invention is stipulated in employment regulations, etc. regarding an employee’s invention, whether an employee, etc. may exercise a compensation claim for an employee’s invention when the time for the payment thereof arrives (affirmative)

Whether employment regulations amended in relation to an employee’s invention are applicable to an employee who had already been retired before such amendment (negative in principle)

17 Supreme Court en banc Decision 2021Da299594 Decided June 20, 2024 [Damages (Motor Vehicle)] 111

Where a victim’s negligence competes with the damage incurred therefrom when the victim who receives pension benefits according to the National Pension Act claims damages against the perpetrator, method of calculating damages (held: contributory negligence after deducting pension benefits from the victim’s damages) and where the National Pension Service subrogates the relevant victim’s claim for damages to the perpetrator pursuant to Article 114(1) of the National Pension Act after providing the victim of an unlawful act with pension benefits, the scope of subrogation (held: the amount of pension benefits equivalent to the proportion for which the perpetrator should be liable of the pension benefits)



18 Supreme Court Order 2024Ma5904 Dated June 27, 2024
[Permission for Recognition and Enforcement of Arbitral Awards] 121

- [1] Meaning of the “place of arbitration”
Whether the “place of arbitration,” the “location of arbitration,” and the “seat of the arbitral institution” should be the same (negative)
Where the parties came to an arrangement designating a specific place as the place for settlement of disputes in an arbitration agreement, whether the place of arbitration may be seen to have been decided by agreement (affirmative in principle)
- [2] Whether an infringement upon the procedural rights of the parties is noticeable in the arbitral proceedings and thus should reach an unacceptable extent to correspond to the grounds to refuse the recognition and enforcement of the arbitral awards as referred to in Articles 38 Subparag. 1 Item (a) and 36(2)1(d) and of the Arbitration Act and Article V(1)(d) of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (affirmative)

19 Supreme Court Decision 2021Da216872, 216889 Decided July 11, 2024 **[Damages (Intellectual Property Rights); Damages (Intellectual Property Rights)]** 126

- [1] Whether the principle of “fair use of works” can be seen to be widely recognized under the former Copyright Act (negative)
- [2] Legal nature of copyright trust service (held: trust under the Trust Act) and legal relation as referred to in the term “trust” under the Trust Act
- [3] Meaning of a lawsuit intervened by the independent party in accordance with Article 79 of the Criminal Procedure Act and method of rendering a judgment on the merits of the case where the intervention by the independent party is recognized as lawful

20 Supreme Court en banc Order 2018Seu724 Dated July 18, 2024 **[Child Support]** 135

In a case where one of the divorced spouses files a claim for reimbursement of child care expenses incurred previously from raising a minor child, whether extinctive prescription for a right to retroactive child support begins to run (affirmative), and if so, the starting point of extinctive prescription (held: when the child reached the age of majority and the duty of raising a child has been terminated)

21 Supreme Court Decision 2019Da256501 Decided July 25, 2024 **[Indemnity]** 166

- [1] Applicable law of a legal relationship surrounding whether the insurer pays insurance proceeds to the insured and acquires the right of the insured against a third party under a contract of

insurance with a foreign element (held: law applicable to a contract of insurance)

- [2] Method of confirming the details of a foreign law applicable to a legal relationship with a foreign element and interpreting the meaning thereof
- [3] Meaning and scope of the subrogation of the insurer in accordance with the UK Marine Insurance Act 1906 and the meaning of the phrase “the insurer is subrogated to all the rights and remedies of the insured related to the objective of the insurance” as referred to herein
Method of the insurer being subrogated to the rights of the insured including a right to claim damages, etc. against a third party through a lawsuit under the UK Marine Insurance Act 1906
- [4] Requirements for the assignment of the claim-based right to be valid under the UK Law of Property Act 1925 and requirements for equitable assignment under the UK Law of Equity and the standard of judgment thereon
- [5] In a case where Stock Company A concluded an insurance contract of marine cargo with Stock Company C, designating the insured as Stock Company A and applying the Institute Cargo Clauses A, etc. as the terms and conditions of the contract, after requesting the transportation of a cargo to Stock Company B in the process of importing a generator, etc. from a foreign company located in the United States, and when Stock Company D verified that a cargo delivered to Stock Company A was damaged by physical impact while transporting the cargo into the Republic of Korea after being commissioned by a partner company of Stock Company B, and Insurance Company C, which received the Letter of Subrogation after paying insurance proceeds to Stock Company A, exercised the right of Stock Company A to claim damages against Stock Company B, the case holding that a legal relationship surrounding whether Insurance Company C pays insurance proceeds to Stock Company A and acquires the right of Stock Company A to claim damages against Stock Company B should follow UK law, which is the law applicable to an insurance contract of marine cargo, and, according to the legal principles of the Marine Insurance Act 1906, even if Insurance Company C pays insurance proceeds to Stock Company A, the right of Stock Company A to claim damages against Stock Company B cannot be seen to be transferred to Insurance Company C, and viewing that requirements for the assignment of the claim-based rights stipulated in Article 136(1) of the UK Law of Property Act 1925 or requirements for equitable assignment stipulated in the UK Law of Equity are satisfied on the sole basis of the details included in the above Letter of Subrogation is difficult, and thus, Insurance Company C cannot exercise the right of Stock Company A to claim damages against Stock Company B



22 Supreme Court Decision 2024Da206760 Decided August 1, 2024
[Lawsuit for Return of Donations] 174

- [1] With respect to a contract of gift in the nature of donation or sponsorship for a specific purpose, the matters to be considered when determining whether the purpose thereof is related to any essential elements of the contract stipulated in Article 109 of the Civil Act
- [2] Where the awareness of a person who expressed his or her intention includes the awareness of current circumstances that became the basis of the prediction or expectation, not staying in the simple prediction or expectation of any matters in the future at the time of a juristic act, and such awareness is in discord with the facts that exist for real, whether such declaration of intention may be seen to be made under a mistake (affirmative)
- [3] In a case where Social Welfare Foundation A is a corporation operating nursing houses, social welfare facilities, etc. for sexual slavery victims drafted for the Japanese Imperial Army, and Party B has sent donations to the bank account for general sponsorship to support activities for the livelihood, welfare, and testimony of the elderly Korean women who were forced to work as sexual slaves under the Japanese colonial rule according to the sponsorship guide of Social Welfare Foundation A, but due to a series of disclosure and media reports made to the effect that most of the donations are reserved in the corporation and have not been used for sexual slavery victims drafted for the Japanese Imperial Army properly, Party B demanded the return of the donations against Social Welfare Foundation A, the case holding that the purpose of a sponsorship contract made between Social Welfare Foundation A and Party B, as a contract of gift in the nature of donation or sponsorship for a specific purpose, which is to support activities related to sexual slavery victims drafted for the Japanese Imperial Army, corresponds to any essential elements of the contract, and there exists inconsistency that may be deemed a mistake between the purpose of the sponsorship contract that Social Welfare Foundation A expressed and Party B was aware of and the present status of the actual use of the donations, and thus, Party B may cancel the sponsorship contract on the grounds that the declaration of intention was made under a mistake

23 Supreme Court Order 2024Ma6239 Dated August 19, 2024 [Appointment of Ad Hoc Managers] 181

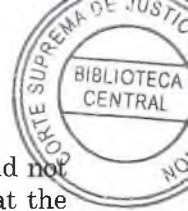
Where there is no manager appointed in accordance with Article 24(3) of the Act on Ownership and Management of Condominium Buildings, whether interested parties, such as sectional owners, persons who occupy sections for exclusive possession with the respective sectional owners' consent, persons who parcel out a building, etc., may request the court to appoint an ad hoc manager according to Article 24-2(1)

of the same Act (affirmative in principle) and whether a circumstance where there are fears that damages may be caused if an ad hoc manager is not appointed immediately apart therefrom is required (negative)

24

Supreme Court Decision 2022Da294084 Decided September 12, 2024
[Lawsuit for Avoidance] 185

- [1] The status of a seller under the bankruptcy procedure for a purchaser of sale that retains the ownership of a movable property (held: a person who has the right to foreclose outside bankruptcy)
- [2] Whether the repayment or substitute payment of a debtor made to a person who has the right to foreclose outside bankruptcy may be subject to avoidance (negative in principle)
- [3] Where a purchaser of sale that retains the ownership of a movable property disposed of the subject matter based on the authority for disposition granted by the seller before he or she is declared bankrupt, whether the seller may allege the right to foreclose outside bankruptcy with regard to a claim for the money from the sale of the property that the purchaser has in relation to a third person under the bankruptcy procedure for the purchaser (negative in principle)
- [4] In a case where Stock Company A concluded a contract for the supply of goods with Stock Company B, including the following matters: “Stock Company A, which supplies goods, should give a franchise to Stock Company B; Stock Company B should deposit the money from goods sold by Stock Company B in a joint account for Stock Company A and Stock Company B; of them, the money for goods supplied by Stock Company A should be paid preferentially to Stock Company A, and the ownership of goods supplied should be transferred to Stock Company B when Stock Company B pays for the whole price of the goods,” and, independently from the above contract, Stock Company A lent money to Stock Company B, and when Stock Company B was declared bankrupt after transferring a claim for the money from the sale of goods to its clients to repay debts corresponding to the money from the sale of goods and borrowed money, a trustee in bankruptcy of Stock Company B filed a lawsuit for avoidance against the above act of transferring the claim, the case holding that Stock Company A’s act of transferring a claim for the money arising out of the sale of goods, etc. that Stock Company B purchased from Stock Company A to clients to Stock Company A before the adjudication of bankruptcy corresponds to fraudulent transfer and thus is subject to avoidance as referred to in Article 391 Subparag. 1 of the Debtor Rehabilitation and Bankruptcy Act
- [5] Whether the so-called fraudulent transfer is also included in “an act performed by the debtor with knowledge that such act is detrimental to bankruptcy creditors,” which is an act subject to avoidance stipulated in Article 391 Subparag. 1 of the Debtor Rehabilitation and Bankruptcy Act (affirmative) and where the



burden of proof lies with respect to whether a beneficiary did not know that such act is detrimental to bankruptcy creditors at the time of an act that is subject to avoidance (held: beneficiary)

25 Supreme Court Decision 2020Da245552 Decided September 12, 2024
[Damages (Etc.)] 195

Whether Article 385(1) proviso of the Commercial Act stating that a director may file a claim for damages against the company where he or she was removed without good cause before the termination of his or her term of office set in advance may be applied *mutatis mutandis* to the dismissal of a representative director by the board of directors (negative), and whether the same applies to the dismissal of a representative director in a general meeting of shareholders pursuant to Article 389(1) proviso of the Commercial Act, which states that the articles of incorporation may provide that a representative director shall be appointed in general meetings of shareholders (affirmative)

26 Supreme Court Decision 2024Da241510 Decided October 8, 2024
[Registration of Ownership Transfer] 199

[1] Whether the applicability of the legislation that has been improved following a decision of constitutional nonconformity extends retroactively to the time at which the decision of constitutional nonconformity was made (affirmative in principle)

[2] Whether the reach of Article 91(1) of the Act on Acquisition of and Compensation for Land for Public Works Projects, which was amended by Act No. 18386 on August 10, 2021, may be limited on the basis of Article 3 of the Addenda (August 10, 2021) of the said Act (negative)

In a case where a repurchase right was extinguished not only because the period for its occurrence under the former Land Compensation Act had lapsed before the constitutional nonconformity decision was handed down (November 26, 2020) regarding the phrase “within 10 years from the date the land has been acquired through consultation or the date the expropriation thereof has commenced,” stipulated in Article 91(1) of the former Act on Acquisition of Compensation for Public Works Projects (amended by Act No. 18386, Aug. 10, 2021), a time-limiting provision for a repurchase right, but also because, after the public need for the land ceased and the requirements for a repurchase right were fulfilled, the period of exclusion under Article 91(1) of the former Land Compensation Act had lapsed before the amended Land Compensation Act took into effect, whether the amended Act on Acquisition of Compensation for Public Works Projects is applicable (negative)

[3] In a case where, even though there is no specific and direct indication of the court’s decision with respect to the allegations of the parties concerned in a written judgment, it is ascertainable whether the court accepted or dismissed the allegations when examined in light

of the overall gist of the reasoning of the judgment, or where the allegations are certain to be dismissed by the court even though the court did not actually make a decision thereon, whether it can be said that the court omitted a finding (negative)

27 Supreme Court Decision 2024Da254820 Decided October 8, 2024
[Etc. (Money)] 206

- [1] Principle of interpreting tax laws and regulations
- [2] In a case involving employee stocks, on which an income tax on the dividend income therefrom was not levied because of the satisfaction of the requirements under each subparagraph of Article 88-4(9) of the Act on Restriction on Special Cases Concerning Taxation, and which were withdrawn after one year from the date of deposit, whether an income tax may be levied on the dividend income paid to the employee prior to the date of withdrawal (negative in principle), and whether this likewise applies in the event that the employee retired within one year from the date of deposit and thus lost membership of employee stock ownership association (affirmative)

28 Supreme Court Decision 2023Da280358 Decided October 25, 2024
[Technology Royalty, etc.] 211

- [1] Method of interpreting an expression of intent
Limitation of the principle of free evaluation of evidence
- [2] In a case where a patent right holder, when granting a nonexclusive license on the patent right, agrees not to grant any further nonexclusive licenses to a third party other than the licensee, whether the licensee is considered to have a sole nonexclusive license (affirmative), and whether this legal doctrine likewise applies to utility model, design, and trademark rights (affirmative)
- [3] In a case where: (a) Party A, who possesses technological know-how and patent, design, and trademark rights of a natural stone-shaped concrete block product (Sansoo block product), granted Incorporated Company B the right to sublicense to a third party the foregoing technological know-how and patent right, etc. conferred thereupon; (b) Incorporated Company B signed a royalty agreement with Incorporated Company C, under which Company C promised to pay Company B royalties calculated by multiplying the agreed royalty rate by the net sales of the foregoing product, in its manufacture and sale of the Sansoo block products using the technical know-how and patent right, etc. so conferred; (c) Company B subsequently notified Company C of the rescission of the agreement on the grounds of default on the payment of royalties, but Company C continued to manufacture and sell the Sansoo block products even after the notification of contract rescission; (d) Company B filed a damages claim against Company C on the grounds of nonpayment of royalties during a contract period and infringement of trade secrets after the termination of the royalty



agreement and infringement of the exclusive licenses to use the patent, design, and trademark rights, in addition to a damages claim on the grounds of the infringement of a sole license combined in parallel therewith, the case holding that the lower court, which held that Company C infringed on Company B's sole license by readily concluding, without separate deliberation, that Company B was in possession of the "sole license of the Sansoo block product," misapprehended the legal doctrine and thereby erred in its judgment, even though the lower court should have properly exercised the authority to demand elucidation from Company B with regard to what it alleges to be the "sole license" exactly refers to, given that the term and scope of the "sole license" varies depending on whether it pertains to patent, design, or trademark rights, and, based on the accurate definition thereof, examined whether the license, as alleged by Company B, was actually conferred upon from Party A, and determined whether to admit the damages claim

- [4] Method of calculating a precise damage amount pursuant to Article 110(6) of the Trademark Act in litigation on the act of infringement of a trademark or an exclusive license to use it, where the occurrence of the damage is acknowledged but the amount of loss is difficult to prove
- [5] In a case where the creditor seeks payment on a number of damages claims with a different time of occurrence and cause of action against the same debtor by means of lawsuit, whether the amount sought and amount awarded should be specified on a claim-by-claim basis (affirmative), and whether this likewise applies to a case where the creditor seeks payment on only some of the claims from a number of damages claims (affirmative)

29 Supreme Court Decision 2024Meu11526, 11533 Decided October 25, 2024 [Divorce; Division of Property] 223

- [1] Meaning of a claim for alimony due to divorce
Whether all circumstances occurring in the process of reaching the final divorce after the breakdown of the marital relationship should be considered when calculating the amount of alimony for the culpable spouse (affirmative) and, in such a case, whether the same applies even if a separate claim for damages can be made for an individual culpable act in this case (affirmative)
- [2] Whether an appeal against a judgment as to the costs of a lawsuit is allowed

30 Supreme Court Decision 2024Da238392 Decided November 14, 2024 [Insurance Proceeds] 228

- [1] Where a policyholder does not obtain consent in written form from another person at the time of the conclusion of the insurance contract while concluding an insurance contract that covers the bodily injury of another person as a peril insured in violation of Article 731(1)

of the Commercial Act, the effect of the insurance contract (nullification) and where a person, who concludes an insurance contract that covers the bodily injury of another person as a peril insured without any consent in written form from the insured, asserts the invalidation of the insurance contract by himself or herself, whether such act is contrary to the principle of trust and good faith or the principle of estoppel (negative in principle)

- [2] Exceptional cases where the court shall be liable to reopen a pleading by accepting a party's request for the reopening of a pleading

31 Supreme Court Decision 2021Da278931, 278948 Decided November 20, 2024 [Claim for Damages, etc.; Prohibition of Infringement of Trade Secret] 232

- [1] In a case where, among joint owners of trade secrets, a person who has responsibility toward other trade secret possessors for protecting trade secrets as a secret according to a contractual relationship, etc., used or disclosed trade secrets to obtain improper benefits or cause damage to other owners of the trade secrets, whether such use or divulgence of trade secrets constitutes an infringement of trade secrets under Article 2 Subparag. 3 Item (d) of the Unfair Competition Prevention and Trade Secret Protection Act (affirmative), and the standards for determining existence of such purpose

- [2] In the case where: (a) Company A and Company B that conduct joint research and development of products embedded in a main power converter of a high-speed train have maintained and managed the technology information related thereto as a secret; (b) Company B, which manufactured and supplied the above product following the order of Company A, was selected as a winning bidder in the bidding process of Company C's equipment purchase, and accordingly manufactured and supplied Company C with the above products; and (c) Company A sought damages against Company B on the grounds of trade secret infringement, the case holding that Company B's act does not constitute an infringement of trade secrets under Article 2 Subparag. 3 Item (d) of the Unfair Competition Prevention and Trade Secret Protection Act, as Company B cannot be considered to have manufactured products that were supplied to Public Corporation C with the intention of gaining improper benefits or inflicting a loss on Company B, notwithstanding that Company B, as a joint owner of the abovementioned technology information, which constitutes a trade secret, has responsibility toward Company A for the protection of trade secrets in accordance with either implicit coincidence of intentions or good faith

32 Supreme Court en banc Decision 2021Da255853 Decided November 21, 2024 [Damages (Automobile)] 237

In a case where a school teacher or staffer died in the course of official duties due to a third-party's tort, and the decedent's claim for lost



retirement pension or lump-sum retirement pension passed to their inheritors, while a separate survivors' pension was paid by the Teachers Pension to only some of the heirs or to people who are not legal heirs, whether the survivors' pension should be deducted from the damages claim solely from the share of the pension beneficiary (affirmative) Whether this legal doctrine applies to the order of deductions of survivors' pension, etc. from a damages claim equivalent to a lost retirement or lump-sum retirement pension under the Public Officials Pension Act, and the scope of persons affected by these deductions (affirmative)

33 Supreme Court Decision 2021Da308030 Decided November 28, 2024
[Payment of Mileage] 249

- [1] Requirements to view that any clause in the terms and conditions shall be null and void on the grounds that it, as a clause that is unreasonably unfavorable to customers, corresponds to “any clause in the terms and conditions which is not fair in contrary to the principle of trust and good faith” and standard of making a judgment thereon
- [2] In a case where Airline A and others revised their terms and conditions to introduce an expiration period of about 10 years in relation to their mileage, and Mileage Holder B and others, arguing that any clause in the revised terms and conditions, as a clause that is unreasonably unfavorable to customers, is not fair and thus, invalid against Airline A and others, sought the payment of expired miles, the case holding that the judgment of the lower court, which determined that it is difficult to view that a clause in the above terms and conditions corresponds to “a clause which is unreasonably unfavorable to customers” as referred to in Article 6(2)1 of the Act on the Regulation of Terms and Conditions or “any clause in the terms and conditions which is not fair in contrary to the principle of trust and good faith” as referred to in Article 6(1) of the above Act, is just

34 Supreme Court Decision 2023Ma6248 Decided November 28, 2024
[Approval of Arbitral Award and Application for Enforcement Decision] 255

- [1] In a case where, even though the text of an arbitral award is partly ambiguous or incomplete, it can nonetheless be clarified through an explanation of the reasoning, whether the enforcement of such arbitral award may be allowed by determining clearly the content of the text through the interpretation of the text and the reasoning (affirmative), and in this case, whether the content of the arbitral award may be complemented by conducting a reexamination of substantive decisions made in the arbitral award, such as its finding of fact and application of law (negative)
 In a case where the content of the arbitral award is clear in and of itself, whether an interpretation by extension or analogy or a

- revision of the content based on other materials is allowed (negative)
- [2] In a case where the grounds for a lawsuit of demurrer under the Civil Execution Act emerged after the establishment of a foreign arbitral award, whether the enforcement of an arbitral award may be rejected by deeming it as a violation of public policy under Article 5(2)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (affirmative)
 - [3] In a case where an assignment order is issued for a future innominate claim set to be subject to seizure by multiple creditors, standards for determining whether there is a stacking of seizure, by which the assignment order becomes invalid (held: the amount of claim subject to seizure as stated in the contract at the time when the assignment order was served by the third debtor), and method of calculating the amount of claim subject to seizure
 - [4] In a case where the relevant parties did not appropriately raise a plea as to the existence and validity of an arbitration agreement in the arbitration proceedings and participated in the arbitration proceedings by presupposing the existence of an arbitration agreement, whether the relevant party may raise a plea as to the existence and validity of the arbitration agreement in the procedure for recognition and enforcement of an arbitral award (negative in principle)
 - [5] Scope of the cases where the recognition and enforcement of an arbitral award may be rejected in accordance with Article 5(1)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and standards for determining thereof (held: law of the country where the enforcement is sought)
 - [6] Purpose of Article 5(2)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and cases where the recognition and enforcement of an arbitral award may be rejected in accordance with the said provision
Requirements for denying the enforcement of a foreign arbitral award in accordance with Article 5(2)(b) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards on the grounds that it was obtained through deception

35 Supreme Court en banc Decision 2019Da255416 Decided December 19, 2024 [Registration of Ownership Transfer] 269

In a case where an administrative court judgment revoking a decision on the state's taking of property from pro-Japanese and anti-national collaborators, which was made in accordance with the former Special Act on Asset Confiscation for Pro-Japanese and Anti-National Collaborators to the State, became final, whether the state is precluded from instituting a civil action against pro-Japanese and anti-national collaborators for the recovery of ownership of such property under Article 2 proviso of the Addendum of the Special Act on Asset Confiscation for Pro-Japanese and Anti-National Collaborators to the State amended on May 19, 2011 (affirmative)



- 36** Supreme Court en banc Decision 2020Da247190 Decided December 19, 2024 **[Wages]** 308
Concept of ordinary wages, criteria for judgment, and whether fixedness can be seen as a conceptual indicator of ordinary wages (negative)
Whether the nature of the wage as an ordinary wage should be negated on the sole basis of the circumstance where the conditions that the wage is paid only to an employee, who is currently employed at the reference time or meets a certain number of workdays, are attached (negative) and whether performance bonuses paid based on work performance correspond to ordinary wages (negative)
New legal doctrine regarding the concept of ordinary wages and the scope of effect thereof

- 37** Supreme Court en banc Decision 2022Da289051 Decided December 19, 2024 **[Claim for Remedy for Discrimination]** 324
Whether the right of access for persons with disabilities is a constitutionally guaranteed fundamental right (affirmative) and requirements to concretize the right of access for persons with disabilities as a right to actively demand the installation of specific facilities and equipment that can ensure equal access as enjoyed by persons without disabilities to the State or private persons and the State's obligations
Where an administrative agency fails to fulfill its obligation to strengthen legislation to guarantee the right of access for persons with disabilities without any justifiable ground, whether such act can be seen to constitute an unlawful omission of administrative legislation (affirmative)
Requirements to recognize the State's liability for damages arising from an unlawful omission of administrative legislation
Where the right of access for persons with disabilities is violated, whether the State has an obligation to pay compensation for mental distress suffered by persons with disabilities (affirmative) and matters to be considered in recognizing the obligation to pay compensation for damages where an individual's rights are violated due to an unlawful omission of administrative legislation
Matters to be considered by the court when calculating the amount of compensation for damages resulting from the failure to fulfill administrative legislation duties

- 38** Supreme Court en banc Decision 2023Da302838 Decided December 19, 2024 **[Wage]** 358
Concept of ordinary wage and standards for determining thereof, and whether fixity can be seen as a conceptual attribute of ordinary wage (negative)
Whether a certain wage's nature as ordinary wage is refused to be recognized on the sole ground that there is a condition attached for the payment of the wage, i.e., the satisfaction of a set number of working days (negative)
Extent to which a new legal doctrine concerning the concept of ordinary

wage has effect

39

**Supreme Court Order 2024Ma6760 Dated December 24, 2024
[Provisional Disposition for Prohibition Against Interfering with
Entry] 366**

[1] Requirements to justify the activities of the trade union

Where the activities of the trade union performed by employees of a contractor for work at the workplace of the person who ordered the work conflict with the authority of the person who ordered the work over labor management, facility management, etc., whether legitimacy can be seen to be secured even in the relationship with the person who ordered the work, who is not an employer, on the sole basis of the circumstance that the legitimacy of the activities of the trade union in the relationship with the person who ordered the work, who is an employer, was satisfied (negative in principle)

Cases where the above activities of the trade union can be deemed even in relation to the person who ordered the work and standard of determining whether to correspond to such cases

- [2] In a case where Company A, which is a limited liability company (LLC), entrusted Stock Company B and others with the delivery service for Company A's cargo; Delivery Man C and others of Stock Company B and others, while carrying out delivery tasks at the delivery center provided by Company A, organized a trade union and conducted promotional activities to recruit the members of the trade union; in response, Company A took measures against Delivery Man C and others, including banning access to the delivery center and prohibiting the use of the application for business; and Delivery Man C and others filed a provisional disposition for prohibition against interfering with entry against Company A on the grounds that these measures interfered with their activities of the trade union, the case holding that even though there was vast room to see that Delivery Man C and others had the right to conduct promotional activities to recruit the members of the trade union within the delivery center of Company A at least within the scope that harmonized with Company A's facility management rights and other related authorities, and there was also a significant possibility of recognizing the need for preservation regarding the access to the delivery center and the use of the application for business that had originally been permitted to Delivery Man C and others, the lower court, which determined otherwise, erred and adversely affected the conclusion of judgment by misapprehending the legal doctrine



CRIMINAL LAW



- 1** Supreme Court Decision 2023Do2982 Decided January 4, 2024 [Violation of the Act on the Prohibition of Discrimination Against Persons with Disabilities and Remedy Against Infringement of Their Rights; Forgery of Private Document; Exercise of Forged Private Document]375

Whereabouts of the burden of proof regarding constituent elements of a crime stipulated in Article 49(1) of the Act on the Prohibition of Discrimination Against Persons with Disabilities and Remedy Against Infringement of Their Rights (held: prosecutor) and the details and degree of the proof

Whether the above provision is applicable in a case where any unfair treatment including harassment, etc. committed against persons with disabilities cannot be seen to have been given on the main ground of the relevant disability or discriminately in comparison with persons without disabilities (negative)

- 2** Supreme Court Decision 2021Mo385 Decided January 5, 2024 [Reappeal Against Adjudication on Dismissal of Reappeal Against the Disposition of Seizure]384

Period within which an inventory of seized articles should be prepared and issued (held: immediately after the seizure takes place in principle) and the manner of preparation

Whether the above provision on the period and manner likewise applies to seizure by voluntary submission (affirmative)

Requirements for recognizing an exception to the period within which an inventory of seized articles must be prepared and issued

Whether a duty to prepare and issue an inventory of seized articles may be neglected or refused by reason of the need to conduct an evaluation of the relevance between the seized article and the alleged criminal facts and additional investigation thereof (negative)

- 3** Supreme Court Decision 2020Do10330 Decided January 25, 2024 [Fraud]391

Strict application of procedural fraud and a case where procedural fraud can be deemed guilty

Where the parties to a lawsuit commit somewhat false or exaggerated words and deeds in the process of reaching an amicable agreement through conciliation procedures, whether such words and deeds can be seen to correspond to an act of defrauding another as referred to in the crime of fraud (negative in part)

Whether it may be readily concluded that the criminal defendant, who should bear the fulfillment duty following conciliation, did not fulfill the duty of care in accordance with the principle of trust and good faith or caused any damage that has proximate causal relations with

the constitution of conciliation to the Plaintiff on the sole basis of the circumstance where he or she failed to perform the primary obligation following conciliation regarding the cause of a claim timely after the constitution of conciliation (negative)

4 **Supreme Court Decision 2021Do10133 Decided February 29, 2024 [Violation of the Act on the Management of Outdoor Advertisements and Promotion of Outdoor Advertisement Industry]397**
Whether advertising stickers that are made up of special paper materials on which letters or diagrams are painted and are affixed to transportation vehicles are included in “advertisements displaying directly painted letters or diagrams to the exterior of the means of transportation,” which are the subset of “advertisements using means of transportation” under Article 3 Subparag. 13 of the former Enforcement Decree of the Act on the Management of Outdoor Advertisements and Promotion of Outdoor Advertisement Industry (affirmative)

5 **Supreme Court Decision 2023Do8603 Decided February 29, 2024 [Violation of the Protection of Communications Secrets Act]403**
Meaning of the term “listening” as referred to in the Protection of Communications Secrets Act and whether an act of playing back and “listening to” the recordings of the conversation after any conversation has already ended may be included in “listening” mentioned above (negative)

6 **Supreme Court Decision 2020Do9431 Decided March 12, 2024 [Violation of the Act on Special Cases Concerning the Punishment of Sexual Crimes (Taking Pictures by Using Camera, etc.); Intrusion upon Habitation]407**

- [1] Where an article voluntarily submitted is seized, when there is a disagreement with regard to whether the seized article was actually produced voluntarily in accordance with Article 218 of the Criminal Procedure Act, whereabouts of the burden of proof on the voluntariness thereof (held: prosecutor)
- [2] In a case where with respect to the facts constituting the violation of the Act on Special Cases Concerning the Punishment of Sexual Crimes (Taking Picture by Using Camera, etc.) that the criminal defendant took photos of the bodies of four victims, which may cause any sexual stimulus or shame against their will, on nine occasions in total by using his or her cell phone camera, the admissibility of the cell phone seized in the form of voluntary submission at the time when an investigative agency caught the criminal defendant in the act came into question, the case holding that when examining in light of overall circumstances, the prosecutor failed to do his or her utmost for the proof eliminating suspicions of the voluntariness thereof in relation to the submission of the cell phone, and thus, the cell phone and electronic information stored



therein correspond to illegally seized evidence and thus cannot be used as evidence of guilt

7 Supreme Court Decision 2022Mo2352 Decided March 12, 2024 [Revocation of Disposition of (Provisional) Return of Seized Articles by Investigative Agency; Reappeal Against Decision of Dismissal of Petition for Alteration of Disposition] 411

[1] Requirements for a quasi-appeal under Article 417 of the Criminal Procedure Act regarding the return of articles seized by an investigation agency and whether the prosecutor’s disposition concerning seized articles can be challenged through a quasi-appeal (negative)

In a case where a decision that does not include the pronouncement of confiscation of seized articles becomes final and conclusive and a seizure is deemed to have been terminated, whether the prosecutor has the authority to make dispositions of the return of seized articles (negative)

[2] Period within which a quasi-appeal under Article 417 of the Criminal Procedure Act can be filed

8 Supreme Court Decision 2023Do15133, 2023Jeondo163, 164 Decided March 28, 2024 [Violation of the Act on Special Cases Concerning the Punishment of Sexual Crimes (Rape through Abuse of Consanguineous Relationship); Violation of the Child Welfare Act (Child Abuse); Violation of the Child Welfare Act (Forcing a Child to Engage in Lewd Acts; Arranging Such Acts; Sexual Abuse Against a Child); Violation of the Act on Special Cases Concerning the Punishment of Sexual Crimes (Similar Sexual Intercourse with Minor); Attachment Order; Attachment Order] 413

[1] Meaning of “a written statement prepared by a criminal defendant or any other person, or a document containing the statement, except as provided for in the preceding two Articles” under Article 313(1) of the Criminal Procedure Act (held: documents prepared outside the investigative process)

Whether a document containing a statement by a person other than the criminal defendant can be considered to be a “written statement prepared by a criminal defendant or any other person” under Article 313(1) of the Criminal Procedure Act, if, even though it was prepared by an entity other than the investigative agency, it was, in effect, prepared after the commencement of the investigation and under the influence or with the involvement of the investigative agency, thus necessarily being viewed as having been prepared within the investigative process (negative)

Necessity of strict constraint on the recognition of the admissibility of a recorded video statement of a person other than the criminal defendant in the process of the investigation by an entity other than the investigative agency

[2] In a case where: (a) the prosecutor commissioned an analysis of

a child victim's statement to a statement analysis officer of the Scientific Investigation Bureau of the Supreme Prosecutors' Office when investigating the allegations of the Defendants' violation of the Act on Special Cases Concerning the Punishment of Sexual Crimes; (b) the statement analysis officer interviewed the victim and recorded the interview, which was produced in a CD-ROM containing the recorded video of the analysis of the victim's statement (video recording) and was submitted as evidence; and (c) the admissibility of the pertinent CD was disputed, the case holding that the video recording cannot be considered to have been prepared outside the investigative process when examined in light of the overall circumstances and is therefore inadmissible as evidence pursuant to Article 313(1) of the Criminal Procedure Act, and the lower judgment, which viewed the video recording as inadmissible in the same vein, is just and proper

9 Supreme Court Decision 2023Do539 Decided April 12, 2024 [Violation of the Act on the Aggravated Punishment of Specific Crimes (Taxation); Violation of the Punishment of Tax Offenses Act]424

- [1] Requirements for the establishment of the crime of tax evasion stated in Article 3 of the Punishment of Tax Offenses Act and Article 8 of the Act on the Aggravated Punishment of Specific Crimes Whether the crime of tax evasion occurs when a taxpayer's failure to meet statutory taxation requirements prevents the tax obligation from arising (negative)
- [2] Meaning of the principle of actual taxation stipulated in Article 14(1) of the Framework Act on National Taxes
A person to whom the income from a property belongs and is liable for the tax payment when: (a) the legal titleholder lacks the ability to control and manage the property; (b) another person exercises actual control and management over the property through their control of the titleholder; and (c) the discrepancy between the titleholder and the actual owner is for the purpose

10 Supreme Court Decision 2024Do1309 Decided April 25, 2024 [Violation of the Labor Standards Act]429

- [1] Purpose of expanding the definition of employer under Article 2(1)2 of the Labor Standards Act to include individuals other than the business owner
- [2] Whether a person who exercises de facto management rights as the company's owner, despite not being formally registered as its representative director, falls within the scope of a person who has failed to comply with a remedy order under Article 111 of the Labor Standards Act (affirmative)



- 11** Supreme Court en banc Decision 2021Do6357 Decided May 23, 2024
[Bodily Injury] 431
Whether “when the criminal defendant is placed under detention” stipulated as one of the compulsory grounds for the appointment of a court-appointed defense counsel in Article 33(1)1 of the Criminal Procedure Act is limited to where the criminal defendant is under detention and being tried in the relevant criminal case (negative) or includes even where the criminal defendant is confined in a prison or detention house as a warrant of detention has been issued and then executed in a separate case or a judgment of guilt is finally affirmed in another criminal case and thus a sentence passed upon the criminal defendant is executed (affirmative)
- 12** Supreme Court Decision 2019Do12887 Decided May 30, 2024
[Violation of the Financial Investment Services and Capital Markets Act] 464
- [1] Intent of Article 178 of the Financial Investment Services and Capital Markets Act to prohibit unfair practices in trading and transaction of financial investment instruments that undermine fairness, reliability, and efficiency
 - [2] Meaning of “unfair means, scheme, or trick,” which is an unfair practice prohibited in Article 178(1)1 of the Financial Investment Services and Capital Markets Act, and standards for the determination thereof
 - [3] Meaning of “material fact” and “money or any interest in property” in “attempting to earn money or any interest in property by using a document containing a false description or representation of a material fact,” which is an unfair practice prohibited in Article 178(1)2 of the Financial Investment Services and Capital Markets Act
Whether the accused must have actually earned money or any interest in property from a false description or representation (negative), and standards for determining whether there was an intention to earn money and any interest in property
 - [4] In a case where a stock-listed company provides the market with information through a public disclosure, which concerns matters such as a capital raise through the offering of shares or spending on new business enterprises, following the completion of internal corporate procedures, specifically the passage of a resolution by the board of directors, and, as a consequence, whether the company can be found to have committed unfair trading practices prohibited under Article 178(1)2 of the Financial Investment Services and Capital Markets Act is at dispute, standards for determining whether the publicly disclosed matters constitute a false description or representation
When a public disclosure accurately reflects a resolution passed by the board of directors, and therefore is not fraudulent in and

of itself, whether the act of making that disclosure nonetheless falls under the use of “unfair means, scheme, or trick” as defined by Article 178(1)1 of the said Act (affirmative to a limited extent), and standards for the determination thereof

13 Supreme Court Decision 2020Do9370 Decided May 30, 2024
[Violation of the Act on the Punishment of Arrangement of Commercial Sex Acts (Arranging Sexual Traffic, etc.)] 485

[1] Where an investigative agency recorded any conversation that it had with the persons concerned including a flagrant offender, etc. at the scene of the crime by a generally accepted method as the need for the preservation of evidence and urgency were required where the crime was currently being committed or immediately after the crime had been committed in the process of investigating an offense in compliance with the due process and proper methods, whether it may be readily concluded that the above recording is illegal on the grounds that it was made without a warrant (negative) Whether this is likewise applicable even if the persons concerned including a flagrant offender, etc. who were the parties to the conversation, were unaware of the fact that such a recording was made at the scene of the crime (affirmative with restriction)

In such a case, the standard of determining whether the investigative agency recorded the conversation by a generally accepted method

[2] Whether “a protocol of statement, a statement, or an affidavit” in which the criminal suspect’s statement is recorded or entered in the process of an investigation conducted by an investigative agency may be viewed differently from a protocol concerning interrogation of a criminal suspect (negative)

Where an investigative agency does not inform a criminal suspect that he or she has a right to refuse to make a statement in the process of interrogating the criminal suspect, whether the criminal suspect’s statement may be admitted as evidence of guilt (negative)

When the status of a criminal suspect that is subject to the notification of a right to refuse to make a statement may be recognized and where a person who is not in the position of the criminal suspect is not notified of a right to refuse to make a statement, whether the statement may be admitted as evidence of guilt (affirmative)

14 Supreme Court en banc Decision 2022Do12175 Decided June 20, 2024 [Violation of the Act on Special Cases Concerning the Settlement of Traffic Accidents (Bodily Injury)] 493

Whether white solid lines prohibiting drivers from shifting their routes on the road correspond to “safety signals for prohibition of traffic” stipulated in Article 3(2)1 of the Act on Special Cases Concerning the Settlement of Traffic Accidents, and thus, the drivers who caused traffic accidents by crossing the lines should be excluded from the application of the provision on the crime not prosecuted against objection as referred to in the main text of the above Article and the provision on special



cases for insurance coverage stipulated in Article 4(1) of the same Act (negative)

15 Supreme Court Decision 2020Do16541 Decided June 27, 2024
[Violation of the Labor Standards Act]502

Whether Article 17(1) of the Labor Standards Act, which stipulates an employer’s duty to clearly state the terms and conditions of employment, and Article 114 Subparag. 1 of the same Act, corresponding to the penalty provision thereof, are likewise applicable to the conclusion of a fixed-term employment contract (affirmative)

Whether the application of the above provision of the Labor Standards Act is excluded on the grounds that the Act on the Protection of Fixed-Term and Part-Time Employees imposes an administrative fine on a violation nearly the same as that of the Labor Standards Act (negative)

16 Supreme Court Decision 2024Do4202 Decided July 11, 2024
[Violation of the Narcotics Control Act (Psychotropic Substances)] 506

[1] Purpose and details of the court-appointed defense counsel system stipulated in Article 33 of the Criminal Procedure Act

[2] Where there is any need to allege sentencing factors favorable to the criminal defendant, such as such as the degree of diminished mental capacity due to drug addiction and a strong probability that the criminal defendant’s substantial cooperation in a drug-related investigation will be recognized as a special mitigating factor in sentencing, whether the criminal defendant’s defense right needs to be guaranteed by appointing a court-appointed defense counsel to protect his or her rights (affirmative)

[3] In a case where the first instance court found the criminal defendant not guilty, and, in response thereto, the prosecutor filed an appeal, where the appellate court found the criminal defendant guilty by accepting the prosecutor’s appeal against the criminal defendant whose defense counsel was not appointed, whether the appointment of a court-appointed defense counsel should be more actively considered from the stage of a pretrial hearing for the protection of the criminal defendant’s rights (affirmative)

[4] Matters to be considered when determining whether the criminal defendant’s defense right needs to be guaranteed through the application of Article 33(3) of the Criminal Procedure Act

In such a case, where the criminal defendant’s defense right was violated as a trial was examined without any appointment of a court-appointed defense counsel even though a court-appointed defense counsel needed to be appointed, which affected the conclusion of judgment, whether this should be viewed as a violation of Article 33(3) of the Criminal Procedure Act (affirmative)

17 Supreme Court Decision 2020Do7802 Decided July 25, 2024
[Violation of the Act on the Aggravated Punishment of Specific Economic Crimes (Fraud)] 513

In a criminal trial with jury participation in sentencing, i.e., a participatory trial, where the court of first instance acquits the Defendant by accepting the jury’s unanimous verdict of acquittal, whether the first instance court’s judgment regarding the “selective use of evidence and finding of fact” should be given a higher degree of deference (affirmative), and the scope of new or additional evidentiary review that the appellate court may conduct on the first instance court’s judgment of acquittal

18 Supreme Court Decision 2021Do2084 Decided August 1, 2024
[Obstruction of Business] 525

[1] Purport of regulating “other acts which do not violate the social rules” under Article 20 of the Criminal Act and their legal nature (held: general circumstances precluding wrongfulness)

[2] Standards for determining whether a certain act constitutes a justifiable act that does not violate the social rules

Whether the requirements of exigency and subsidiarity that need to be satisfied to be recognized as a justifiable act should be considered as elements in determining whether the means employed are proportionate to the aims being pursued (affirmative), and specific details and degree of exigency and subsidiarity required for such a determination

[3] In a case where the Defendants, advocates of animal rights, were charged with obstruction of business against Incorporated Company A, a chicken processing corporation, for their act of colluding with other members of an animal rights group to obstruct the company’s transportation and slaughter of live chickens through the use of force, which involved physically blocking vehicles on the road to the company’s main gate by lying with their hands tied to bags of concrete and holding signs with slogans such as “Don’t kill chickens,” and chanted in protest of Company A’s business operations, the case holding that the Defendants’ conduct met the elements of the crime of obstruction of business and affirmed the lower court’s decision, which held that the Defendants’ actions did not constitute a justifiable act, despite the possibility that their motive and purpose were justifiable, reasoning that the means used were not proportionate to the aims pursued, and the legal interest they sought to protect, i.e., animal welfare, did not outweigh the legal interest infringed upon, specifically Company A’s right to operate its business

19 Supreme Court Decision 2020Do18397 Decided August 23, 2024
[Violation of the Personal Information Protection Act] 529

Standards for determining whether a person constitutes “a person who knowingly receives such personal information” in the latter text of Article 71 Subparag. 5 of the former Personal Information Protection



Act

Whether a person who obtains specific and identifiable personal information of a living individual, such as their likeness or body features captured by a video-recording device, and to whom the right to control and manage this information has been transferred, constitutes “a person who knowingly receives such personal information” in the latter text of Article 71 Subparag. 5 of the former Personal Information Protection Act (affirmative)

20 Supreme Court Decision 2020Do14843 Decided September 12, 2024 [Fraud] 532

Purport of the Criminal Procedure Act that categorizes evidence into human evidence such as witnesses, documentary evidence, evidential materials, and other evidence and provides separate and specific manner of evidence investigation for each method of evidence, which, in particular, sets forth strict procedural provisions with regard to an evidence investigation on witnesses in a manner of “examination” Admissibility of statements heard by a judge without a witness oath in an arbitrary manner or in a way that bypasses the formal witness examination procedures prescribed by the Criminal Procedure Act, including evidence that is merely a formal alteration of such a statement (e.g., digital recording file, etc.) (negative), and whether this likewise applies in the event that the defendant or his or her defense counsel consented to the procedures as implemented, or where they did not raise an *ex post facto* objection to the results of the evidence investigation so conducted and agreed on admitting the recording file thereof as evidence (affirmative)

21 Supreme Court Order 2024Mo2020 Dated September 25, 2024 [Reappeal Against Decision Dismissing Revocation and Change of Disposition Regarding Seizure by Investigative Agency] 541

Whether the language and text written by a judge in a search and seizure warrant to specify the “object to be seized” must be strictly construed (affirmative)

In a case where the “object to be seized” specified in a search and seizure warrant does not include electronic information stored in a mobile phone, whether the electronic information stored in a mobile phone can be seized under the said warrant (negative in principle)

22 Supreme Court Decision 2019Do11015 Decided September 27, 2024 [Violation of the Act on Counter-Terrorism for the Protection of Citizens and Public Security] 545

[1] Meaning of “instigating others to join a terrorist group” stipulated in Article 17(3) of the Act on Counter-Terrorism for the Protection of Citizens and Public Security

Whether a person can be seen to have instigated others to join a terrorist group on the sole basis of an act of advocating or instructing certain political ideas or abstract principles related to

- terrorism or terrorist groups or an act of praising, encouraging, propagandizing, or following activities of terrorist groups (negative) Whether an act of propagandizing and instigating terrorism that has nothing to do with terrorist groups can be seen to correspond to an act of instigating others to join a terrorist group (negative)
- [2] Standard of determining whether any expression corresponds to an act of instigating others to join a terrorist group as referred to in Article 17(3) of the Act on Counter-Terrorism for the Protection of Citizens and Public Security and method of determining whether any expression posted on the social media platform corresponds to an act of instigating others to join a terrorist group, an act of propagandizing and instigating terrorism, or an act of praising, encouraging, propagandizing, or following activities of terrorist groups
- [3] Only where the content regarding an affiliation to a terrorist group or the intention to encourage others to join a terrorist group is explicitly or directly revealed, whether the specific contact information for expressing intent to join a terrorist group or the methods, means, and procedures to join a terrorist group were provided, or the provided information, etc. constitute a practical means of joining a terrorist group were clarified, whether it can be seen as an act of instigating others to join a terrorist group as referred to in Article 17(3) of the Act on Counter-Terrorism for the Protection of Citizens and Public Security (negative)
- [4] Whether the danger of inducing or increasing any resolve of those instigated to join a terrorist group should be recognized to correspond to an act of instigating others to join a terrorist group as referred to in Article 17(3) of the Act on Counter-Terrorism for the Protection of Citizens and Public Security (affirmative) and in such a case, when any resolution to join a terrorist group should arouse from among those instigated due to such instigation, as one of the elements required for the constitution of such act, or there must be a recognized likelihood that those instigated will proceed to take action to join the terrorist group, whether the danger of being instigated to join the terrorist group can be seen to exist (negative)
- [5] In a case where the criminal defendant who decided to instigate a large number of people to join the Islamic State (hereinafter the "IS") by uploading posts praising the IS and its affiliated terrorist groups through his or her Facebook account operated by him or her and posting a link to a Telegram chat room in which those who turn in favor of IS after reading such messages can have one-on-one conversations with the members of IS, was charged for instigating many and unspecified persons to join the IS by uploading posts and videos praising the ideas of IS, a terrorist group designated by the United Nations (hereinafter the "UN"), on Facebook and posting a link that can have direct conversations with unknown members of the IS, the case holding that the lower court, which acquitted the criminal defendant of the charge of instigating others



to join a terrorist group, erred and adversely affected the conclusion of judgment by misapprehending the legal doctrine

23 Supreme Court Decision 2020Do11223 Decided October 8, 2024
[Violation of Narcotics Control Act (Cannabis)]555

[1] Whether specific provisions regarding the search and seizure procedures stipulated in the Criminal Procedure Act, including provisions regarding the right of participation, should be construed and implemented in line with the constitutional principle of the due process of law and the principle of warrant (affirmative)

[2] Intent behind Articles 123(2) and (3) and 219 of the Criminal Procedure Act, which mandate the participation of the owner, etc. or the neighbor, etc. during the execution of a search and seizure warrant at a dwelling, etc.

Whether the owner, etc. or the neighbor, etc. who participate in the execution of a search and seizure warrant pursuant to Articles 123(2) and (3) and 219 of the Criminal Procedure Act should have the capacity to participate (affirmative)

[3] In the event that the execution of a search and seizure warrant for a dwelling, etc. under Article 123(2) of the Criminal Procedure Act is conducted without the participation of the owner, etc. or a neighbor, etc., the lawfulness of such execution of a search and seizure warrant (negative in principle), and whether the same rule applies if a participant was present but lacked or had a deficient capacity to participate (affirmative)

[4] In a case where the owner, etc. or the neighbor, etc. participating in the execution of a search and seizure warrant pursuant to Article 123(2) and (3) of the Criminal Procedure Act has a disability in communication or expression of opinion, whether the investigative agency should take lawful measures in alignment with the essence of Article 26(6) of the Act on the Prohibition of Discrimination Against Persons with Disabilities and Remedy Against Infringement of Their Rights for participants with such disabilities (affirmative)
Whether the investigative agency is required to have a neighbor with the capacity to participate be present during the execution of a search and seizure warrant if the accused, as the owner of the dwelling, etc., is present but lacks the capacity to participate (affirmative), and the lawfulness of a search and seizure where only the accused having no capacity participated (negative in principle)

[5] Standards for determining whether the requirements for the lawfulness of search and seizure procedures are satisfied in terms of the participants of the search and seizure procedure pursuant to Articles 123(2) and (3) and 219 of the Criminal Procedure Act

24 Supreme Court Decision 2024Do10062 Decided October 8, 2024
[Fraud; Extortion; Violation of the Foreign Exchange Transitions Act]565

Where a request for a warrant of seizure and search is made in relation to an article seized without a warrant at the crime scene during or immediately after the commission of a crime, but the warrant is not issued, whether the investigating agency should immediately return the seized article (affirmative) and whether the seized article that is not returned immediately can be taken as evidence of guilt (negative) In such a case, the meaning of returning the seized article immediately

25 Supreme Court Decision 2024Do6831 Decided October 25, 2024
[Violation of the Special Act on the Prevention of Loss Caused by Telecommunications-Based Financial Fraud and Refund for Loss; Fraud; Violation of the Financial Investment Services and Capital Markets Act] 569

[1] Meaning of “feigning the supply of goods or services, etc.” excluded from telecommunications-based financial fraud according to the former part of the proviso to Article 2 Subparag. 2 of the former Special Act on the Prevention of Loss Caused by Telecommunications-Based Financial Fraud and Refund for Loss (held: cases where there is a reciprocal relationship between the “supply of goods or the provision of services, etc.,” which becomes the purpose of the act, and the economic benefit)

[2] Whether “feigning the provision, arrangement, and brokerage of loans” stipulated in the latter part of the proviso to Article 2 Subparag. 2 of the former Special Act on the Prevention of Loss Caused by Telecommunications-Based Financial Fraud and Refund for Loss corresponds to telecommunications-based financial fraud as referred to in the main text of Article 2 Subparag. 2 of the same Act regardless of the existence of a reciprocal relationship (affirmative)

26 Supreme Court Order 2024Mo2182 Dated November 8, 2024
[Revocation of Disposition Refusing Inspection and Copying of Finalized Litigation Records; Reappeal Against Decision of Partial Acceptance for Alteration] 576

Purpose of Article 59-2 of the Criminal Procedure Act

Method of determining whether to correspond to “if the disclosure of the records of trial is likely to seriously defame a party involved in the case, harm such party’s privacy or security of life or body of such party, or impair the peace in such party’s life” as referred to in Subparag. 3 among the grounds for a restriction on disclosure stipulated in the main text of Article 59-2(2) of the Criminal Procedure Act and where a crime in a case relating to a criminal trial, for which adjudication is finally closed, regards the personal rights, privacy, security of life or body, and the peace in an individual’s life as the protected legal interests thereof or corresponds to sexual crimes, crimes of stocking, retaliatory crime, etc., which are closely related thereto, matters to be considered in relation to the disclosure of the records of trial

Meaning of “if it is deemed that there is a justifiable ground for



inspecting or copying the records” in the proviso to Article 59-2(2) of the Criminal Procedure Act and method of determining whether a specific issue corresponds thereto

Method of raising an objection to the prosecutor’s disposition refusing to allow, or placing a limitation on, the inspection and copying of the records of a criminal trial, for which adjudication is finally closed (held: quasi-appeal) and the court’s method of examination in such appeal proceedings

27 Supreme Court Decision 2023Do11044 Decided November 14, 2024 [Occupational Breach of Trust; Counterfeit of Private Document; Uttering of Falsified Private Document; Violation of the Trademark Act]585

[1] Requirements for a trademark right to be transferred to the transferee Whether the act of a third party other than the trademark right holder, performed without a legitimate source of authority but falling within the scope of trademark protection, constitutes a trademark infringement (affirmative)

[2] In a case where the Defendant, who was running a guesthouse business, was charged with trademark infringement by posting a registered trademark of Stock Company A, which provides guesthouse services, on the Defendant’s guesthouse website and conducted business activities, the case holding that the Defendant is not a trademark right holder of the aforesaid registered trademark, and thus the Defendant’s use of the aforesaid registered trademark for a guesthouse business, i.e., the related service for which the trademark is designated, constitutes an infringement of the registered trademark

28 Supreme Court Decision 2023Do14674 Decided November 14, 2024 [Violation of the Occupational Safety and Health Act]588

[1] Where an employee of a relevant contractor dies in violation of safety and health measures at the site of the relevant construction works, whether a person who takes a leading role in supervising and managing the construction works as a business owner who awards a contract for construction works corresponds to “contractee,” and thus, he or she should be subject to criminal liability stipulated in Article 167 of the Occupational Safety and Health Act for the death of the employee and whether a person who does not correspond thereto does not bear such criminal liability as above as the “person placing an order for construction works” (affirmative)

Matters to be considered when interpreting the provisions on the obligations to take safety and health measures related to a contract for construction works and criminal punishment for a violation thereof under the Occupational Safety and Health Act

Standard of determining whether a business owner who awards a contract for construction works corresponds to a contractee who bears criminal liability as referred to in Article 167 of the Occupational

Safety and Health Act in relation to an employee of a relevant contractor who dies at his or her place of business

- [2] Purpose of Articles 38 and 39 of the Occupational Safety and Health Act, which stipulate various duties with regard to a business owner and purpose of Articles 168 Subparag. 1 and 173 of the same Act, which impose punishment on a violation of the above provisions Where a business owner, etc. fail to perform the necessary measures stipulated in Articles 38 and 39 of the Occupational Safety and Health Act, whether such act, in itself, constitutes violations of Articles 38, 39, 168 Subparag. 1, and 173 of the same Act (affirmative)

29 Supreme Court Decision 2021Do12868 Decided December 12, 2024 [Violation of the Personal Information Protection Act] 604

Whether the court where the lawsuit has been brought, which is tasked with judicial services for each individual case, is excluded from the “personal information controller” (affirmative), and in a case where the court where the lawsuit has been filed serves litigation documents as an act of official notification according to the manner prescribed by the law based on its jurisdiction, whether such service of documents is equal to the provision of personal information in the position of the “personal information controller” (negative)

30 Supreme Court Decision 2020Mo3326 Decided December 16, 2024 [Reappeal Against the Seizure by Investigative Institution] ... 609

Whether an investigative agency may permit the presence of a person at a search and seizure site who is not an authorized participant under the Criminal Procedure Act (negative in principle), and the illegality of a search and seizure conducted either with an unauthorized third party present during the execution of a search and seizure warrant or without a warrant at all (affirmative)

31 Supreme Court Decision 2022Do2071 Decided December 24, 2024 [Interference with Business] 614

- [1] In the process of seizure and search procedures by investigative agencies, if the person subject to disposition is a minor with legal capacity, whether the warrant should be presented to the minor (affirmative), and whether the presentation of the warrant to the person with parental authority can be substituted therefor (negative)

Whether the seizure and search can be deemed lawful on the sole ground that the opportunity to participate in the execution procedure of the seizure and search warrant was provided to the person with parental authority instead of the minor with legal capacity or his or her defense counsel (negative)

- [2] Where a private person, upon the instructions or request of investigative agencies, performs acts corresponding to seizure and search by taking possession of an item controlled or managed by a third party other than himself or herself and delivering it to

ADMINISTRATIVE LAW

1

**Supreme Court Decision 2022Du56661 Decided April 4, 2024
[Disposition Refusing Objection to Admission Process and Lawsuit
Seeking Revocation of Disposition of Rejection] 629**

[1] Where the believers of the Seventh-day Adventist Church in the entrance examination process of a professional law school of a national university are disadvantaged on the grounds of their religious beliefs, whether the president is obliged to take any active measure to eliminate any disadvantage given to the believers of the Seventh-day Adventist Church according to the principle of proportionality (affirmative)

[2] In a case where Party A, a believer of the Seventh-day Adventist Church who submitted an application for admission to a professional law school of a national school, was notified that his or her first round of document screening had been passed, and his or her interview was scheduled on Saturday morning; Party A submitted a written objection to the effect of demanding a change in his or her interview schedule to the last turn on Saturday afternoon to keep his or her religious faith in the Sabbath prohibiting secular activities before sunset on Saturday; however, the president refused the objection raised by Party A and gave a notice of rejection to Party A who failed to take the interview, the case holding that the president's act of neglecting grave disadvantages given to Party A on the grounds of his or her religious faith by refusing a change in Party A's interview schedule is illegal in violation of the principle of equality under the Constitution of the Republic of Korea, and the disposition of rejection issued on the grounds that Party A failed to take the interview on the day of the interview illegally scheduled should be revoked

2

**Supreme Court Decision 2022Du57138 Decided April 16, 2024
[Petition for Arbitration Award Regarding Labor Disputes of Teachers
to be Vacated] 636**

[1] Where a legal interest in seeking a declaration of the annulment of an administrative disposition is recognized on an exceptional basis in a pending lawsuit for its invalidation or annulment, even if an administrative disposition's legal effect has expired due to the passage of time, making it seem impossible to restore the original condition even if the disposition is vacated, and the meaning of "where there is a possibility of recurrence of illegal dispositions made on the same grounds as the relevant administrative disposition," which is one of such exceptions

Whether the above legal doctrine likewise applies to cases involving lawsuits seeking a declaration of invalidation or an annulment of an arbitration award (affirmative)

[2] Meaning of an arbitration award rendered by the National Labor



Relations Commission being “inconsistent with any Act or subordinate statute or ultra vires,” which is the grounds for objection to an arbitration award, and whether an appeal to an arbitration award is admitted on the sole grounds that it is unfairly unfavorable or unreasonable to either one of the labor or management (negative)

- [3] Whether matters that are stated in Article 7(1) of the Act on the Establishment and Operation of Teachers’ Unions as having no effect as a collective bargaining agreement can be addressed in an arbitration award (affirmative), and whether the inclusion of such matters in the arbitration award is considered unlawful (negative)
- [4] Whether an arbitration award containing the subject matter that constitutes an infringement or restriction on the essential and fundamental powers of an educational institution and educational administrative institution, designed to ensure and protect the people’s right to education, is illegal (affirmative), and methods for determining what constitutes such infringement and restriction

3 Supreme Court en banc Decision 2021Du35834 Decided May 23, 2024 [Claim for Revocation of Imposition of Waste Charges, etc.]645

- [1] Whether a cigarette manufacturer’s relocation of cigarettes from their place of manufacture to a temporary location, for the purpose of profiting from the tax-increase margin in a departure from conventional business practices, constitutes a removal of the cigarettes from their place of manufacture (negative)
- [2] In a case where: (a) cigarettes were taken out of its manufacturing site or bonded area to another such location without tax payment for the convenience of cigarette supply; and (b) on or after January 1, 2015, the effective date of the Local Tax Act, amended by Act No. 12855 on December 23, 2014, and the Individual Consumption Tax Act, amended by Act No. 12846 on December 23, 2014, these cigarettes were removed a second time from the location where they had been initially brought, whether a revised tax rate stipulated in the amended provision that went into effect at the time of the second removal applies (affirmative), and whether the legal doctrine concerning removal without tax payment and the meaning of removal in the post-amendment Local Tax Act, etc. applies likewise to the interpretation of “removal of [tobacco] from the manufacturing site,” the requisite element for imposing charges on waste, charges for national health promotion, and contributions to the Tobacco Cultivation Stabilization Fund (affirmative)
- [3] Whether Article 2 of the Addenda of the Enforcement Decree of the Act on the Promotion of Saving and Recycling of Resources (Feb. 3, 2015) constitutes bona fide retroactive legislation, which is prohibited in principle under the Constitution of the Republic of Korea (affirmative)

4 Supreme Court Decision 2021Du58202 Decided May 30, 2024 [Claim for Revocation of Disapproval Disposition of Health Care Benefits and Medical Benefits] 662

In a case where a disposition for the suspension of qualification was imposed on Party B in accordance with Article 66(1)7 of the Medical Service Act on the grounds that Party B made a claim for medical expenses by fraud while Party A and others, medical personnel, and Party B established and were operating a medical institution; nevertheless, Party A and others, who jointly established the medical institution with Party B, who was still the joint founder of the medical institution, performed medical practices and claimed a review of the costs of health care benefits and medical benefits; and the Health Insurance Review and Assessment Service returned the request for the review to the above medical institution on the grounds that the above medical institution is not entitled to claim health care benefit expenses and medical benefit expenses during the period for suspension of qualification of Party B, the case holding that the above medical institution cannot provide medical services pursuant to Article 66(3) of the Medical Service Act during the period for suspension of qualification of Party B and thus does not correspond to a medical care institution or medical benefit institution that may claim health care benefit expenses and medical benefit expenses under the National Health Insurance Act and the Medical Benefit Act

5 Supreme Court Decision 2024Mu689 Decided June 19, 2024 [Suspension of Execution] 670

- [1] Whether an act that does not cause direct legal changes to a legal status of the counterparty or parties concerned, such as an administrative agency’s internal decision-making, constitutes an administrative agency’s disposition that is subject to an appellate process (negative)
- [2] Meaning of “legal interest” as a requisite for the filing of a petition for suspension of execution of an administrative disposition and the scope of the “legal interest” protected by the statutes that are applicable and relevant to the disposition at issue
- [3] Meaning of “irreparable damage,” which is a requisite for the suspension of effectiveness of a disposition under Article 23(2) of the Administrative Litigation Act, and method of determining whether “an urgent need exists to prevent a serious loss resulting from the execution of a disposition or the continuation of procedures” Purpose of stipulating that “there shall be no serious effect on public welfare” as a requisite for the suspension of execution under Article 23(3) of the Administrative Litigation Act, and method of determining the seriousness of the effect of an administrative disposition on public welfare if enforced
- [4] In a case where: (a) the Minister of Health and Welfare made an announcement on the expansion of the medical school admissions



quota to 2,000 from the academic year 2025, followed by the Minister of Education's acceptance of an application for raising enrollment quota from each president of universities that have medical schools, expansion of admissions quota for the academic year 2025 to 2,000, and allocation of quota for each university; and (b) students currently in medical schools filed a petition for suspension of the effectiveness and execution of the Health Minister's announcement on the expansion of enrollment quota and the Education Minister's allocation of increased quota, the case holding as follows: (a) the announcement of the Minister of Health and Welfare to raise the medical school admissions quota is difficult to be considered as a disposition that can be subject to an appellate review and, therefore, a petition for suspension of the effectiveness thereof is unlawful and should thus be dismissed; (b) although the petitioners currently in medical schools have a legal interest in seeking suspension of the execution of the part of the disposition of admissions quota expansion with respect to the medical school in which they are currently studying, the risk of serious impact on public welfare from the suspension of the execution of a disposition to raise medical school enrollment quota far outweighs the damage that might be incurred by the petitioners who are studying at medical schools from the execution of the disposition of an increase in medical school enrollment quota; and (c) thus, the suspension of the expansion of medical school admissions quota may not be allowed

6 Supreme Court en banc Decision 2022Du43528 Decided July 18, 2024 [Lawsuit Seeking Revocation of the Disposition of the Prohibition on Gathering] 679

- [1] Subject matter of, and restrictions on, the freedom of religion stipulated in Article 20(1) of the Constitution of the Republic of Korea
- [2] Matters to be considered when determining whether the administrative authority committed illegality by erring and abusing discretion, such as by violating the principle of proportionality, in having chosen, among diverse measures, one that it deemed necessary to prevent contagious diseases based on the judgment derived from a technical risk assessment
- [3] In a case where: (a) Party A, a metropolitan city mayor, announced an increase in Coronavirus Disease 2019 (COVID-19) confirmed cases, particularly a surge in the aggregate number of confirmed COVID-19 cases and a cluster infection at a particular church, declared the current Level 2 social distancing measures would be maintained while extending a de facto Level 3 ban on public gatherings, and issued a preemptive order prohibiting gatherings in places of worship in the city; and (b) Church B, located in the city, and its lead pastor filed a petition for revocation of the order prohibiting gatherings on the grounds that the said order violated the principle of proportionality and thus infringed the freedom of

religion, the case holding that Party A's disposition cannot be said to have infringed Church B, etc.'s freedom of religion by violating the principle of proportionality and principle of equity

7

Supreme Court en banc Decision 2023Du36800 Decided July 18, 2024 [Revocation of Disposition Imposing Insurance Contributions]

..... 713

- [1] Where administrative authorities have established administrative practices by enacting internal rules and, according thereto, taking administrative actions in a consistent direction for a long period of time, whether the principle of equality under the Constitution of Republic of Korea is applicable to administrative acts through internal rules or established administrative practices (affirmative)
- [2] Method of determining whether administrative acts conducted by administrative authorities correspond to discriminatory treatment without reasonable grounds and thus violate the principle of equality under the Constitution of Republic of Korea
- [3] Whether the illegality of discriminatory treatment may be recognized more broadly for the National Health Insurance Service, a special corporation for the public interest, compared to private organizations or private persons (affirmative)
- [4] In a case where Party A and Party B, who were in a same-sex relationship, married while they were living together after agreeing to cohabit as partners; Party A reported the acquisition of the eligibility as a dependent as the de facto marriage spouse of Party B, an employee insured with health insurance, to the National Health Insurance Service and, thereby, acquired the dependent eligibility; and when such fact was reported in the official media, the National Health Insurance Service changed the eligibility of Party A to that of the self-employed insured and notified Party A of the insurance contributions that should have been paid as the self-employed insured after having Party A lose his or her eligibility retroactively from the day Party A became a dependent of Party B, alleging that the eligibility of Party A as a dependent was registered "by mistake," the case holding that the above disposition is illegal in violation of Article 21(1) of the Administrative Procedures Act and the principle of equality under the Constitution of Republic of Korea

8

Supreme Court Decision 2023Chu5177 Decided July 25, 2024 [Declaration of Invalidity of Ordinance Bill Resolution] 762

- [1] In a case where, despite the amendment of an ordinance bill that was subject to determination in a lawsuit for a declaration of invalidation of the passage thereof, its content remains practically unaltered and consistent, whether an interest in a lawsuit pertaining to a pre-amendment ordinance bill is extinguished (negative), and cases where an interest in a lawsuit can be admitted on an exceptional basis, even though the possibility for directly contesting



the unlawfulness of an ordinance bill has been eliminated, according to the principle of primacy of the law, upon the amendment, etc. of an ordinance bill

- [2] Statutes and regulations that serve as the standard for determination in a lawsuit where whether an ordinance bill is in violation of statutes and regulations is disputed following Article 192(8) of the Local Autonomy Act (held: statutes and regulations having a normative effect at the time of the closing of arguments)
- [3] In a case where the Minister of Interior and Safety demanded that the mayor reconsider Article 13-2 of the “Partial Amendment of the Ordinance Bill of the Busan Metropolitan City Ordinance on the Management of Outdoor Advertisements and Promotion of Outdoor Advertisement Industry,” which states that, in a case where a political party displays or installs political party banners, it must satisfy two requirements, i.e., first, the number of hanging banners that can be simultaneously installed is one per Eup/Myeon/Dong (Subparag. 1) and second, banners must not contain hate speech or defamatory content (Subparag. 2), before installing them on the designated display stands, on the grounds that the said ordinance bill is in violation of the relevant statutes and regulations, with which the mayor did not comply, subsequent to which the Minister filed a lawsuit seeking a declaration of invalidation of the passage of the ordinance bill based on Article 192(8) of the Local Autonomy Act, the case holding that the disputed provision in the pertinent ordinance bill is in violation of Article 117(1) of the Constitution of the Republic of Korea and the main text of Article 28(1) of the Local Autonomy Act, which states the primacy of statutes and regulations over ordinances

9 Supreme Court Decision 2018Jaedu178 Decided September 27, 2024
[Revocation of an Order of Correction for Collective Agreement]
 773

- [1] The part relating to “an act of subsidizing trade union’s operating expenses” stipulated in Article 81 Subparag. 4 of the former Trade Union and Labor Relations Adjustment Act combined with Article 31(3) of the same Act corresponds to the statutory provision on penalty (negative)
- [2] Where a decision incompatible with the Constitution concerning the temporary application thereof was pronounced in relation to non-penal provision, but as the time limit passed without the revision of legislation in which unconstitutionality was not eliminated, the effect of the statutory provision was lost, whether it merely affects the future (affirmative)

Where the revision of the legislation was made after the time limit for revision, but there is no transitional provision regulating the retroactive effect, whether the court should conduct a trial by applying the existing provision until the time limit for revision determined by the decision incompatible with the Constitution

expires (affirmative)

10

**Supreme Court Decision 2023Du37391 Decided October 25, 2024
[Revocation of Decision on Retrial of the Remedy from Unfair Dismissal] 778**

Standards for determining whether a foreign business entity constitutes a business or business place with “a regular workforce of not less than five employees,” where the Labor Standards Act fully applies, in an international labor relationship under which it establishes a corporation or business office in the Republic of Korea, operates business activities, and uses employees

11

**Supreme Court Decision 2020Du36892 Decided November 28, 2024
[Lawsuit Seeking Revocation of Correction Order, etc.] 781**

[1] Meaning of an “act of presenting conditions that are unreasonable in light of normal transaction practices to the other party to a transaction” defined as one of the abusive practices of market-dominant positions in the standards for reviewing “abusive practices of market-dominant positions” publicly notified by the Fair Trade Commission and, in such a case, standard of determining “normal transaction practices”

[2] Where the transaction practices are deemed to be in line with desirable competition order even if the transaction practices are not consistent with actual transaction practices, whether the transaction practices can be recognized as “normal transaction practices,” which underlies the constitution of abusive practices of market-dominant positions (affirmative) and in such a case, method of determining what corresponds to normal transaction practices that are deemed to be in line with desirable competition order

[3] Meaning of “acts not recognized as a legitimate exercise of copyright” subject to the application of the above Act under the contrary interpretation of Article 59 of the former Monopoly Regulation and Fair Trade Act and method of determining whether to correspond thereto

Matters to be considered when determining whether a copyright holder’s demand for compensation for access to or use of their work corresponds to the act of presenting an unreasonable condition in light of normal transaction practices

[4] Where a vertically integrated market-dominant business entity, who simultaneously supplies essential raw materials and other resources for production activities to downstream market business entities in the upstream market and produces and sells products or services based on those raw materials in the downstream market, sets prices for raw materials in the upstream market at levels high enough to exclude competing business entities in the downstream market or the entry of new business entities is substantially blocked due to such prices, whether the price of the raw materials be considered


an unfair condition that is unreasonable in light of normal transaction practices that are deemed to be in line with desirable competition order (Affirmative)

INTELLECTUAL PROPERTY

1 Supreme Court Decision 2023Hu11180 Decided October 25, 2024 [Decision to Reject (Trademark)] 792

- [1] Method of determining the similarity of combined trademarks consisting of a combination of two or more letters and/or figures
Method of determining the similarity of trademarks where a mark is among the constituents of a trademark
- [2] Method of determining the probative value of the results of the survey on the perception of the similarity of trademarks on prospective consumers and elements to be considered by the judge
- [3] In a case where an examiner of the Korean Intellectual Property Office made a decision to reject the application for the trademark



registration of “” filed by Incorporated Company A on the ground that it is either identical or similar to “**VITTORIA**,” which constitutes “others’ trademark previously registered,” in terms of mark and related goods and, thus, falls under Article 34(1)7 of the Trademark Act, the case holding that the above trademark applied for registration is similar to the prior registered trademark in terms of mark and has similar or identical related goods to the prior registered trademark, thereby constituting a trademark falling under Article 34(1)7 of the Trademark Act, and is thus ineligible for trademark registration, and that the results of the survey on the perception of the similarity of trademarks on prospective consumers submitted by Company A cannot be considered to have been designed to improve the reliability of survey results, and, accordingly, the lower judgment holding that the survey results are difficult to be adopted as evidence is tenable

2 Supreme Court Decision 2024Hu10825 Decided December 26, 2024 [Decision to Reject (Patent)] 798

- [1] If a person who is jointly entitled to a patent received a dismissal decision in an appeal for the decision to reject a patent application, whether one of the joint holders of entitlement to a patent may unilaterally seek revocation of the said dismissal decision (affirmative)
- [2] Validity of ratification of the conduct of litigation performed by a person who has defective power of attorney and whether this ratification can be made in the final appellate trial (affirmative)
Whether partial ratification of the conduct of litigation performed by an unauthorized representative is admitted (negative in principle)

TAXATION

- 1 Supreme Court Decision 2023Du44634 Decided January 11, 2024
[Revocation of Disposition Refusing Correction of Local Corporate
Income Tax] 805

Where the double taxation on the tax paid overseas is not completely avoided on the sole basis of the foreign tax credit system in accordance with the former Corporate Tax Act, whether the amount of the tax paid overseas may be deducted from the amount of the local corporate income tax on the basis of Article 4 of the Second Protocol to the Agreement between the Government of the Republic of Korea and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (negative)

- 2 Supreme Court Decision 2021Du46940 Decided January 25, 2024
[Revocation of Disposition Imposing Corporate Tax] 810

Where, in relation to income arising in the residence country of a foreign corporation and reverting to a permanent establishment of the foreign corporation located in the Republic of Korea, under the interpretation of the tax treaty concluded with the residence country, the Republic of Korea may exercise the authority to impose taxes first, and, according thereto, double taxation is adjusted in the residence country, whether the amount of tax paid to the residence country in relation to such income may be subject to tax credits on tax paid overseas under Articles 97(1) and 57(1)1 of the former Corporate Tax Act (negative)

- 3 Supreme Court Decision 2023Du58701 Decided April 12, 2024
[Revocation of Disposition Imposing Value-Added Tax] 816

Whether the cases that are zero-tax rated in the value-added tax system and the requirements for the application of the zero tax rate, such as a nonresident, etc. stipulated in Article 33(2)1 of the former Enforcement Decree of the Value-Added Tax Act should be strictly interpreted (affirmative)

Where disputes arise over the application of the zero tax rate, the burden of proof on the requirements for the application of the zero tax rate (held: a person who alleges the application of the zero tax rate)

Requirements for the application of the zero tax rate to a domestic supply of communications services and method of determining whether to correspond to a "nonresident" as referred to in Article 33(2)1 of the former Enforcement Decree of the Value-Added Tax Act

Whether such legal doctrine is likewise applicable in a case where a person supplied with services is a member or a civilian of the United States Armed Forces in the Republic of Korea according to the Agreement Under Article IV of the Mutual Defense Treaty Between the Republic of Korea and the United States of America, Regarding



Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea (affirmative in principle)

4 Supreme Court Decision 2021Du39997 Decided June 27, 2024 [Revocation of Disposition Refusing to Rectify Corporate Tax Assessment] 822

In a case where a taxpayer files a timely tax base return within a statutory filing period but does not appeal a subsequent tax correction notice issued by the tax authority within the objection period, whether they can still request a correction within the five-year period for filing a request for correction (affirmative)

In a lawsuit to revoke a disposition that denied a request for a tax reduction, whether a taxpayer can argue both that they over-reported the initial tax base and that the tax authority's reason for making an upward adjustment was invalid (affirmative)

Whether a taxpayer can still file a lawsuit to revoke a tax disposition only regarding the tax base and amount from their original return after the objection period for a tax increase notice, which was made in accordance with the proviso of Article 45-2 of the former Framework Act on National Taxes, has expired (affirmative)

5 Supreme Court Decision 2022Du51031 Decided July 25, 2024 [Revocation of Disposition Imposing Corporate Tax] 826

[1] Whether income generated in connection with the passengers boarding or cargo loaded in the Republic of Korea among income accruing from the international transportation business by ship, which is operated by a foreign corporation with a domestic place of business in the Republic of Korea and overseas, is merely included in the tax base of corporate tax as domestic source business income of the relevant foreign corporation in accordance with Article 93 Subparag. 5 of the former Corporate Tax Act (affirmative)

[2] Whether the existence and scope of “income from overseas navigation by ship” included in the total costs of domestic source income of a foreign corporation should be proven by the relevant tax authority in principle (affirmative)

[3] A case where a foreign corporation providing overseas navigation services should file a tax return on the tax base eligible for the zero tax rate under the provisions of the former Value-Added Tax Act

Where there is contention in relation to the application of the zero tax rate, the burden of proof regarding the requirements for the application of the zero tax rate (held: a person who alleges the application of the zero tax rate)

The burden of proof regarding the tax base of the zero tax rate that becomes the basis of the taxation thereof in relation to the additional tax on negligence in filing a tax return on the tax base eligible for the zero tax rate of value-added tax (held: tax authority) and whether the circumstance that the value of supply that becomes

the basis of the confirmation of the tax base eligible for the zero tax rate was duly calculated should also be proven by the relevant tax authority (affirmative in principle)

6

**Supreme Court Decision 2021Du51881 Decided September 12, 2024
[Revocation of Disposition Imposing General Income Tax] ...836**

[1] Method of determining whether to correspond to “when the transfer of stocks, etc. contributed by the contributors is restricted by the articles of incorporation of the corporation” stipulated as one of the constituent elements of the secondary tax liability of a corporation as referred to in Article 40(1)2 of the former Framework Act on National Taxes and, in such a case, where stocks, etc. of the contributors were issued by foreign corporations and thus correspond to legal relationships with foreign elements, whether the applicable law stipulated pursuant to the provisions of the former Act on Private International Law should be deemed the primary standard (affirmative in principle)

Whether the law applicable to the establishment of the relevant corporation should apply to matters regarding the interpretation and effect of the articles of incorporation of the corporation (affirmative in principle)

Method of confirming the meaning and details of the foreign law applicable in relation to legal relationships with foreign elements

[2] In a case where when the head of the competent tax office imposed general income tax on Party A and notified Party A of such fact, but the property of Party A was insufficient to collect national taxes in arrears, the head of the competent tax office designated Corporation B as a person secondarily liable to pay taxes of Party A according to Article 40 of the former Framework Act on National Taxes on the premise that Party A is actually an oligopolistic stockholder holding a 100% stake in Corporation B corresponding to a foreign corporation under our Corporate Tax Act established in the Hong Kong Special Administrative Region in accordance with statutes or regulations of the Hong Kong Special Administrative Region of the People’s Republic of China and seized immovable assets and claims owned by Corporation B, issuing a disposition imposing general income tax, etc. upon Corporation B within the limit of the net asset value of Corporation B, the case holding that the lower court, which rendered a different judgment on the grounds that the stocks of Corporation B meet all the requirements stipulated in Article 40(1)2 of the former Framework Act on National Taxes as “when the transfer is restricted by the articles of incorporation,” erred and adversely affected the conclusion of judgment by misapprehending the legal doctrine