

One Small Step Forward: The Mainland China Is Trying to Differentiate Inter-regional Private Cases From Those Foreign-related Ones

For quite a long time, what China had been doing for its interregional private laws was modelling their solutions on international conventions such as the Hague Service Convention, the Hague Evidence Convention and the Hague Judgments Convention etc. Normally they eventually got a slimmed-down Arrangement for the corresponding matter. This was quite different from what happened in the EU where the enhanced versions of the Hague Conventions could be seen and something extra could even be achieved. Also different from the EU where the ECJ could give answers when many questions at national law level were elevated and tested in the context of Regulations at the EU level, there has been no common court for interregional instruments within China so far. Apart from those bilateral Arrangements, all regions within China are basically treating one another as a 'foreign country' in terms of private laws.

The situation is, however, changing, at least from the Mainland side. Yesterday, I was invited to attend a conference which was under the support of the Supreme People's Court of PRC and organized by the High Court of Guangdong Province that is geographically the closest one to Hong Kong and Macau. The purpose of the conference was to read the Draft Interpretation prepared by a research team of the Guangdong High Court and to be formally adopted and issued by the Supreme People's Court later on. This Draft Interpretation is, again, an unilateral act of the Mainland China who wants to better its civil procedural rules regarding cases related to Hong Kong and Macau (possibly also Taiwan included). Indeed, different from the past experience for the past decades where inter-regional private cases were generally handled in analogy with foreign-related ones, the Mainland China is now trying to differentiate them. It wants to have more advanced and enhanced rules for interregional private cases. Keep an eye on the development of Chinese interregional private laws