

[Now available] Chronology of Practice: Chinese Practice in Private International Law in 2023

By Prof. HE Qisheng



Since its inception in 2001, the annual survey on Chinese judicial practice in private international law, published by the Chinese Journal of International Law, has served as a valuable source of information on Chinese practice in private international law, particularly during periods when case law was not readily available (notably prior to 2013). The first annual survey, titled ‘Private International Law in the Chinese Judicial Practice in 2001’, appeared in Vol. 2(1),

2003, and was prepared by Professors Huang Jin and Du Huangfang. However, in its early years, the survey was not published on a regular basis. Indeed, in addition to the 2001 survey, only three others were published between 2005 and 2014: the survey for the year 2002 (published in 2005), for 2003 (published in 2008), and for 2006 (published in 2009).

Since 2015, the regular publication of the survey has been ensured by Professor He Qisheng of Peking University Law School under the title “***Chronology of Practice: Chinese Practice in Private International Law***”. (For previous announcements on this blog, see the posts for 2018, 2019, 2020, and 2021. Annual surveys for the years 2013 to 2018 are also available on Professor He’s SSRN page.) Professor He’s dedication to maintaining and expanding the annual survey has been instrumental in ensuring it remains an indispensable resource for the field, while making information on private international law in China readily accessible to non-Sinophone researchers.

With that said, the **Chronology of Practice: Chinese Practice in Private International Law in 2023** is now available, marking the 11th consecutive annual survey since 2015. This year's edition is particularly noteworthy as it includes English translations of recently enacted legal provisions, include among others:

- The new provisions on international jurisdiction (Chapter 24, "Jurisdiction" of the Civil Procedure Law (2023 Amendment), Arts. 276-282),
- Provisions on service of process and taking of evidence (Chapter 25, "Service of Process, Taking of Evidence, and Periods" of the Civil Procedure Law (2023 Amendment), Arts. 283-287),
- Provisions on foreign judgments (Arts. 293-296 of the Civil Procedure Law (2023 Amendment)), and
- The Supreme People's Court Interpretation on Certain Issues Concerning the Application of the Law of the PRC on the Application of Law to Foreign-Related Civil Relations (II) (Arts. 1-13).

Like its predecessors, this year's survey provides important updates and further enhances accessibility to key legal developments for researchers and practitioners of private international law.

The abstract of 2023 survey reads as follows:

The survey of the Chinese practices in private international law in 2023 highlights the following aspects: First, four new laws and two administrative regulations, three judicial interpretations by the Supreme People's Court ("SPC") have been formulated, and six groups of 44 typical cases have been selected by the SPC. Notably, China acceded to the Hague Apostille Convention this year. Additionally, Chinese courts concluded 24,000 foreign-related civil and commercial cases, 16,000 maritime cases, and 16,000 commercial arbitration judicial review cases. Second, Part IV of the Civil Procedure Law was amended to include new provisions addressing jurisdiction, service of process abroad, taking of evidence and periods, as well as recognition and enforcement of foreign judgments and arbitral awards. These new rules and relevant cases are presented throughout the Survey. Third, the application of international treaties and practices has emerged

as a significant topic, with new rules in the Foreign Relations Law and the SPC Interpretation of International Treaties and International Practices. Additionally, the SPC selected 14 representative cases in this regard. Fourth, concerning the ascertainment of foreign laws, the SPC issued two judicial interpretations and selected three relevant cases. Fifth, regarding the judicial review of arbitration cases, the SPC has selected several Typical Cases of Judicial Review of Arbitration, which serve as significant guiding examples.

The table of content of the paper is as follows:

I. Introduction

II. Overview

- II.A. Report on the Work of the SPC in 2023
- II.B. New laws and the SPC's judicial interpretations
- II.C. Typical cases

III. Jurisdiction

- III.A. Rules in the Civil Procedure Law 2023
- III.B. Choice of court agreement
 - III.B.i. Standard terms and conditions
 - III.B.ii. Asymmetric choice of court agreement
- III.C. *Forum non convenience*

I.V. Choice of law

- IV.A. Characterization
- IV.B. Ascertainment of foreign law
 - IV.B.i. SPC Private International Law Interpretation II
 - IV.B.ii. SPC Decision on Amending the CICC Provisions
 - IV.B.iii. Cases on ascertainment of foreign laws
- IV.C. Extraterritoriality of Chinese laws

V. International conventions and international practices

- V.A. Foreign Relations Law
- V.B. SPC Interpretation of International Treaties and International

Practices

- V.C. Cases on the application of international conventions
- V.D. Cases on the application of international practices

VI. Service of process, taking of evidence and periods

- VI.A. Rules in the Civil Procedure Law 2023
- VI.B. Service of process abroad
- VI.C. Evidence
- VI.D. Apostille

VII. Foreign Judgments

- VII.A. Rules in the Civil Procedure Law 2023
- VII.B. Cases about recognition and enforcement of foreign judgments

VIII. International arbitration and foreign arbitral awards

- VIII.A. Rules in the Civil Procedure Law 2023
- VIII.B. Judicial review of arbitration