

Law No. (6) of 2015
On Conflict of Laws in Civil and Commercial Matters with a Foreign Element

We, Hamad Bin Isa Al Khalifa, the King of the Kingdom of Bahrain

- Having perused the Constitution;
- The Civil and Commercial Procedural Law promulgated by Legislative Decree No. (12) of 1971 (as amended);
- The Law of Evidence in Civil and Commercial Matters promulgated by Legislative Decree No. (14) of 1996 (as amended);and
- The Civil Code promulgated by Legislative Decree No. (19) of 2001;
- The Consultative Council and Representative Council have endorsed this law and we hereby ratify and promulgate it.

Article (1)

Scope of Application of the Law

Rules of this law shall apply to all disputes related to civil and commercial matters with a foreign element involving conflict of laws in legal positions or relations, unless otherwise stated under provisions of law, treaty, or convention applicable in the kingdom.

Article (2)

Principles of Private International Law

Without prejudice to article (1), rules of private international law shall apply if no special provision is provided for in this law.

Article (3)

Characterization of Legal Positions and Relations

When jurisdiction for Bahraini courts is established, Bahraini law shall determine all matters related to characterization of legal positions and relations in order to decide the applicable law to the subject-matter of the dispute.

Article (4)

Freedom of Choice

Parties may agree to choose the applicable law, and may agree to choose International Trade Law and its customs.

Article (5)

Non-Contradiction with Public Order

The law to be applied to the subject-matter of a dispute shall not be contrary to public order in Bahrain.

Article (6)

Submission of Provisions of the Applicable Law

1. Parties to a dispute shall submit provisions of the applicable law. If no provisions were submitted, Bahraini law may be considered as the applicable law to the subject-matter of the dispute.
2. In support of their defence or arguments, parties to a dispute may present before the body examining the dispute, judicial judgments or jurisprudence in relation to provisions of applicable law.
3. The body examining the disputes shall take into account principles of application and interpretation of applicable law if the parties had submitted such principles.
4. If the law to be applied is disputed amongst the parties, the body examining the dispute shall determine the applicable law before addressing the subject-matter of the dispute.

Article (7)

Exclusion of applicable law

1. Subject to article 6(a), if the body examining the dispute decided to exclude application of applicable law for any reason, it shall prior to exclusion clarify the reasons of exclusion to the parties. Parties may submit their related defenses within the period specified by the body examining the dispute.
2. If the applicable law was excluded for any reason, the body examining the dispute shall apply rules of Bahraini law.

Article (8)

Multiplicity of Laws

If a law of a foreign state is the applicable law yet, the dispute is either subject to multiple legislations, or is subject to conflict of laws with application in time in that state, then law of this particular state is to decide which of these legislations is to be applied to the dispute.

Article (9)

Substantive Provisions in Evidence

With regard to substantive provisions in evidence, provisions of applicable law shall apply unless the parties agree otherwise, or if it is evident from the circumstances that another law is intended to be applied.

Article (10)

Urgent matters and Provisional and Interim Requests

Laws of Kingdom of Bahrain shall apply to urgent matters and provisional and interim requests notwithstanding the law applicable to the dispute.

Article (11)

Capacity and Civil Status of a Foreign Natural Person

1. Foreign natural persons are subject to the law of their nationality to determine their capacity and civil status.
2. If a foreign person -who is party to a legal action with effects taking place in Bahrain-, is considered to have capacity under Bahraini law yet is considered a minor under the law of his nationality, then this party cannot invoke his incapacity if it was due to a hidden reason that is not evident for the other party.
3. If upon obtaining a new nationality one's legal capacity is affected, then legal actions concluded before obtaining the new nationality shall not be affected.

Article (12)

Legal System Governing Foreign Legal Person

With regard to granting legal personality to a foreign legal person, its legal capacity, its financial liability, its legal representatives, and all other matters related to the legal system of a foreign person shall be subject to the law of the state where the legal person has its principal headquarter and carries out its actual activities.

Bahraini law shall apply if a foreign legal person carries out its actual activities in Bahrain even if its principal headquarter is not located in Bahrain.

Article (13)

Statelessness and Multiple-nationality

The body examining a dispute shall determine the applicable law to a stateless person, or to a person, who holds multiple nationalities at the same time.

If Bahraini nationality was one of the multiple nationalities of a person, then Bahraini law is the applicable law.

Article (14)

Lack of or Multiplicity of Domicile

The body examining the dispute shall determine the law to be applied to persons with no domicile, or to persons who have multiple domiciles at the same time. Nevertheless, in the latter case, if the Kingdom of Bahrain was one of the domiciles then Bahraini law is to be applied.

If one claims to have a domicile in a particular state, then law of the latter shall determine whether domicile is established or not.

Article (15)

Immovable Property

1. Possession of, ownership and real rights over immovable property, methods of acquisition, transfer and termination of these rights, in addition to the formal validity of legal actions over such property, shall be subject to the law of the place within which the immovable property is situated.
2. Substantive validity and effects of legal actions concluded in relation to immovable property shall be subject to the law of the place within which the immovable property is situated, unless the parties agree otherwise, or if it is evident from the circumstances that another law is intended to be applied.

Article (16)

Movable Property

1. Possession of, ownership and real rights over movable property, methods of acquisition, transfer and termination of such rights, shall be subject to the law of the state within which the movable property was situated, at the relevant point in time when the event giving rise to such rights took place. Unless parties agree otherwise, or it is evident from the circumstances that another law is intended to be applied.
2. if a movable property is transferred from one state to another, the law of the state of delivery shall be applied
3. Unless the parties agree otherwise, or it is evident from the circumstances that another law is intended to be applied.

Article (17)

Contractual Obligations

1. Formal and substantive validity of a contract, in addition to its legal effects shall be governed by the law of the state of common habitual residence of the parties. If no common habitual residence was established, the applicable law shall be that of the state where the contract was concluded
2. Unless the parties agree otherwise, or it is evident from the circumstances that another law is intended to be applied.
3. Parties may choose different laws to be applied to different parts of a contract, provided that such parts can be separated from other contract parts.

Article (18)

Stock-Exchange Contracts

The law applicable to contracts concluded on a stock exchange shall be that of the state within which the stock-exchange is situated.

Article (19)

Employment Contracts

1. Employment contracts shall be subject to the law of the state where the contract is substantially performed.
2. If the contract is substantially performed in more than one state, then the law applicable shall be of the state within which the principal place of business is situated.
3. If the principal place of business is abroad, nevertheless, employment contracts were concluded by a branch located in Bahrain, then Bahraini law shall apply provided that the employment contract is substantially performed in the Kingdom of Bahrain.
4. Without prejudice to the overriding mandatory rules of the applicable law as stated in paragraphs (a) and (b) of this article, parties have the freedom to choose another law to be applied to their employment contract.

Article (20)

Franchise Contracts

Franchise contracts shall be subject to the law of the state where headquarter of the franchisee is situated at the time of concluding the contract. Unless the parties agree otherwise, or it is evident from the circumstances that another law is intended to be applied.

Article (21)

Agency Contracts and Commercial Representation

Commission and commercial agency contracts, and commercial representation shall be subject to the law of the habitual residence of the agent or commercial representative unless otherwise agreed by the parties, or it is evident from the circumstances that another law is intended to be applied.

Article (22)

Consumer Contracts

Consumer contracts shall be subject to the law of the state of consumer's habitual residence, unless otherwise agreed by the parties, or if it is evident from the circumstances that another law is intended to be applied. Such choice may not, however, have the result of depriving the consumer of the protection afforded to him by provisions that cannot be derogated from by virtue of the law of his habitual residence.

Article (23)

Stocks and Bonds

Stocks and Bonds shall be subject to the law of the state in which such stocks and bonds are issued.

Article (24)

Cheque, Promissory Note and Bill of Exchange

Cheque, promissory note, bill of exchange and other commercial papers, shall be governed by the law of the state where payment has to be made.

Article (25)

Obligations Arising from Torts

1. Obligations arising from torts shall be subject to the law of the state where the wrongful act was committed unless agreed otherwise by the parties.
2. Paragraph (a) of this article shall not apply to acts that are committed outside the Kingdom yet considered lawful in the Kingdom.

3. If the person liable for the wrongful act is insured, the injured party may bring a case against the insurer provided that the law applicable to the insurance contract allows to bring such direct claim.

Article (26)

Obligations Arising from Unjust Enrichment

Obligations arising from unjust enrichment including payments of amounts wrongly received and residual amounts shall be subject to the law of the state where the act giving rise to the obligation occurred, unless agreed otherwise by the parties.

Article (27)

Intellectual Property Rights

1. Literary and artistic property shall be subject to the law of the state for which protection is claimed
2. Industrial property including trademarks and geographical indications shall be subject to the law of the state where the right is registered
3. If the right is registered in more than one state, one of which is the Kingdom of Bahrain, then Bahraini law is the law to be applied.
4. With regard to exploitation of any economic rights of intellectual property, article (17) shall be applicable to contracts concluded with the right holders of the said rights.

Article (28)

Entry into Force and Application

The Prime Minister and the Ministers, each in his respective capacity, shall implement this Law which shall come into effect as from the first day of the month following the lapse of 3 months from the date of its publication in the Official Gazette

King Of Kingdom of Bahrain
Hamad Bin Isa Al Khalifa

Issued in Riffa Palace

Dated: 2nd July, 2015 AD

Corresp.15th Ramadhan,1436 Hijra