

— 中英文对照法规系列 —

CIVIL PROCEDURE LAW & ARBITRATION LAW

**民事诉讼法
与仲裁法**

中国法制出版社

中英文对照法规系列

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出版说明

为满足广大法律工作者、法学专业师生、外籍人士的学习和实务所需，我社组织出版了《中英文对照法规系列》丛书。

本套丛书按部门法分册，各分册基本收录了该部门法内我国现行有效的法律法规。在编排上，同页英文居左、中文居右，英文字号稍大，希望这种版式更能接近读者的阅读习惯。此外，为方便读者的学习和查阅，对法律文本中的法律专业术语，以脚注的形式在每页下方作了中英文对照标记。

本套丛书共分9册，分别为：《宪法》、《行政法》、《经济法》、《民事法》、《商法》、《知识产权法》、《民事诉讼法与仲裁法》、《婚姻家庭与社会法》、《刑法与刑事诉讼法》。

图书编辑不足之处，敬请广大读者指正。

2005年9月

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Civil Procedure Law of the People's Republic of China

中华人民共和国民事诉讼法

(Adopted at the Fourth Session of the Seventh National People's Congress on April 9, 1991, promulgated by Order No. 44 of the President of the People's Republic of China on April 9, 1991, and effective as of the date of promulgation)

(1991年4月9日第七届全国人民代表大会第四次会议通过 1991年4月9日中华人民共和国主席令第44号公布 自公布之日起施行)

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Part One General Provisions

Chapter I The Aim, Scope of Application and Basic Principles

Article 1 The Civil Procedure Law^① of the People's Republic of China is formulated on the basis of the Constitution and in the light of the experience and actual conditions of our country in the trial of civil cases.

Article 2 The Civil Procedure Law of the People's Republic of China aims to protect the exercise of the litigation^② rights of the parties and ensure the ascertaining of facts by the people's courts, distinguish right from wrong, apply the law correctly, try civil cases promptly, affirm civil rights and obligations, impose sanctions for civil wrongs, protect the lawful rights and interests of the parties, educate citizens to voluntarily abide by the law, maintain the social and economic order, and guarantee the smooth progress of the socialist construction.

Article 3 In dealing with civil litigation arising from disputes on property and personal relations between citizens, legal persons or other organizations

第一编 总 则

第一章 任务、适用范围和基本原则

第一条 中华人民共和国民事诉讼法以宪法为根据，结合我国民事审判工作的经验和实际情况制定。

第二条 中华人民共和国民事诉讼法的任务，是保护当事人行使诉讼权利，保证人民法院查明事实，分清是非，正确适用法律，及时审理民事案件，确认民事权利义务关系，制裁民事违法行为，保护当事人的合法权益，教育公民自觉遵守法律，维护社会秩序、经济秩序，保障社会主义建设事业顺利进行。

第三条 人民法院受理公民之间、法人之间、其他组织之间以及他们相互之间因财产关系和人身关系提起的民

① The Civil Procedure Law 民事诉讼法

② litigation 诉讼；打官司；讼案

and between the three of them, the people's courts shall apply the provisions of this Law.

Article 4 Whoever engages in civil litigation within the territory of the People's Republic of China must abide by this Law.

Article 5 Aliens, stateless persons^①, foreign enterprises and organizations that bring suits or enter appearance in the people's courts shall have the same litigation rights and obligations as citizens, legal persons and other organizations of the People's Republic of China.

If the courts of a foreign country impose restrictions on the civil litigation rights of the citizens, legal persons and other organizations of the People's Republic of China, the people's courts of the People's Republic of China shall follow the principle of reciprocity^② regarding the civil litigation rights of the citizens, enterprises and organizations of that foreign country.

Article 6 The people's courts shall exercise judicial powers^③ with respect to civil cases.

The people's courts shall try civil cases independently in accordance with the law, and shall be subject to no interference by any administrative organ, public organization or individual.

Article 7 In trying civil cases, the people's courts must base themselves on facts and take the law as the criterion.

Article 8 The parties in civil litigation shall have equal litigation rights. The people's courts shall,

事诉讼, 适用本法的规定。

第四条 凡在中华人民共和国领域内进行民事诉讼, 必须遵守本法。

第五条 外国人、无国籍人、外国企业和组织在人民法院起诉、应诉, 同中华人民共和国公民、法人和其他组织有同等的诉讼权利义务。

外国法院对中华人民共和国公民、法人和其他组织的民事诉讼权利加以限制的, 中华人民共和国人民法院对该国公民、企业和组织的民事诉讼权利, 实行对等原则。

第六条 民事案件的审判权由人民法院行使。

人民法院依照法律规定对民事案件独立进行审判, 不受行政机关、社会团体和个人的干涉。

第七条 人民法院审理民事案件, 必须以事实为根据, 以法律为准绳。

第八条 民事诉讼当事人有平等的诉讼权利。人民法院审理民事

① stateless persons 无国籍人

② reciprocity 互惠; 对等

③ judicial powers 审判权

in conducting the trials, safeguard their rights, facilitate their exercising the rights, and apply the law equally to them.

Article 9 In trying civil cases, the people's courts shall conduct conciliation for the parties on a voluntary and lawful basis; if conciliation fails, judgments shall be rendered without delay.

Article 10 In trying civil cases, the people's courts shall, according to the provisions of the law, follow the systems of panel hearing^①, withdrawal^②, public trial and the court of second instance being that of last instance.

Article 11 Citizens of all nationalities shall have the right to use their native spoken and written languages in civil proceedings.

Where minority nationalities live in aggregation in a community or where several nationalities live together in one area, the people's courts shall conduct hearings and issue legal documents in the spoken and written languages commonly used by the local nationalities.

The people's courts shall provide translations for any participant in the proceedings^③ who is not familiar with the spoken or written languages commonly used by the local nationalities.

Article 12 Parties to civil actions are entitled in the trials by the people's courts to argue for themselves.

案件,应当保障和便利当事人行使诉讼权利,对当事人在适用法律上一律平等。

第九条 人民法院审理民事案件,应当根据自愿和合法的原则进行调解;调解不成的,应当及时判决。

第十条 人民法院审理民事案件,依照法律规定实行合议、回避、公开审判和两审终审制度。

第十一条 各民族公民都有用本民族语言、文字进行民事诉讼的权利。

在少数民族聚居或者多民族共同居住的地区,人民法院应当用当地民族通用的语言、文字进行审理和发布法律文书。

人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供翻译。

第十二条 人民法院审理民事案件时,当事人有权进行辩论。

① panel hearing 合议

② withdrawal 回避

③ participant in the proceedings 诉讼参与人

Article 13 The parties are free to deal with their own civil rights^① and litigation rights the way they prefer within the scope provided by the law.

Article 14 The people's procuratorates shall have the right to exercise legal supervision^② over civil proceedings.

Article 15 Where an act has infringed upon the civil rights and interests of the State, a collective organization or an individual, any State organ, public organization, enterprise or institution may support the injured unit or individual to bring an action in a people's court.

Article 16 The people's conciliation committees^③ shall be mass organizations to conduct conciliation of civil disputes under the guidance of the grass-roots level people's governments and the basic level people's courts.

The people's conciliation committee shall conduct conciliation for the parties according to the Law and on a voluntary basis. The parties concerned shall carry out the settlement agreement reached through conciliation; those who decline conciliation or those for whom conciliation has failed or those who have backed out of the settlement agreement may institute legal proceedings in a people's court.

If a people's conciliation committee, in conducting conciliation of civil disputes, acts contrary to the law, rectification shall be made by the people's court.

第十三条 当事人有权在法律规定的范围内处分自己的民事权利和诉讼权利。

第十四条 人民检察院有权对民事审判活动实行法律监督。

第十五条 机关、社会团体、企业事业单位对损害国家、集体或者个人民事权益的行为，可以支持受损害的单位或者个人向人民法院起诉。

第十六条 人民调解委员会是在基层人民政府和基层人民法院指导下，调解民间纠纷的群众性组织。

人民调解委员会依照法律规定，根据自愿原则进行调解。当事人对调解达成的协议应当履行；不愿调解、调解不成或者反悔的，可以向人民法院起诉。

人民调解委员会调解民间纠纷，如有违背法律的，人民法院应当予以纠正。

① civil rights 民事权利

② legal supervision 法律监督

③ The people's conciliation committees 人民调解委员会

Article 17 The people's congresses of the national autonomous regions^① may formulate, in accordance with the Constitution and the principles of this Law, and in conjunction with the specific circumstances of the local nationalities, adaptive and supplementary provisions^②. Such provisions made by an autonomous region shall be submitted to the Standing Committee of the National People's Congress for approval; those made by an autonomous prefecture or autonomous county shall be submitted to the standing committee of the people's congress of the relevant province or autonomous region for approval and to the Standing Committee of the National People's Congress for the record.

Chapter II Jurisdiction

Section 1 Jurisdiction by Forum Level

Article 18 The basic people's courts^③ shall have jurisdiction as courts of first instance^④ over civil cases, unless otherwise provided in this Law.

Article 19 The intermediate people's courts^⑤ shall have jurisdiction as courts of first instance over the following civil cases:

- (1) major cases involving foreign element;
- (2) cases that have major impact on the area

第十七条 民族自治地方的人民代表大会根据宪法和本法的原则，结合当地民族的具体情况，可以制定变通或者补充的规定。自治区的规定，报全国人民代表大会常务委员会批准。自治州、自治县的规定，报省或者自治区的人民代表大会常务委员会批准，并报全国人民代表大会常务委员会备案。

第二章 管辖

第一节 级别管辖

第十八条 基层人民法院管辖第一审民事案件，但本法另有规定的除外。

第十九条 中级人民法院管辖下列第一审民事案件：

- (一) 重大涉外案件；
- (二) 在本辖区有

① the national autonomous regions 民族自治地方

② adaptive and supplementary provisions 变通或者补充规定

③ The basic people's courts 基层人民法院

④ courts of first instance 一审法院

⑤ The intermediate people's courts 中级人民法院

under their jurisdiction; and

(3) cases as determined by the Supreme People's Court^① to be under the jurisdiction of the intermediate people's courts.

Article 20 The high people's courts^② shall have jurisdiction as courts of first instance over civil cases that have major impact on the areas under their jurisdiction.

Article 21 The Supreme People's Court shall have jurisdiction as the court of first instance over the following civil cases:

(1) cases that have major impact on the whole country; and

(2) cases that the Supreme People's Court deems it should try.

Section 2 Territorial Jurisdiction

Article 22 A civil lawsuit brought against a citizen shall be under the jurisdiction^③ of the people's court of the place where the defendant^④ has his domicile^⑤; if the place of the defendant's domicile is different from that of his habitual residence^⑥, the lawsuit shall be under the jurisdiction of the people's court of the place of his habitual residence.

A civil lawsuit brought against a legal person or

重大影响的案件;

(三) 最高人民法院确定由中级人民法院管辖的案件。

第二十条 高级人民法院管辖在本辖区有重大影响的第一审民事案件。

第二十一条 最高人民法院管辖下列第一审民事案件:

(一) 在全国有重大影响的案件;

(二) 认为应当由本院审理的案件。

第二节 地域管辖

第二十二条 对公民提起的民事诉讼, 由被告住所地人民法院管辖; 被告住所地与经常居住地不一致的, 由经常居住地人民法院管辖。

对法人或者其他组织提起的民事诉讼, 由

① the Supreme People's Court 最高人民法院

② The high people's courts 高级人民法院

③ jurisdiction 管辖

④ defendant 被告

⑤ domicile 住所

⑥ habitual residence 经常居住地

any other organization shall be under the jurisdiction of the people's court of the place where the defendant has his domicile.

Where the domiciles or habitual residences of several defendants in the same lawsuit are in the areas under the jurisdiction of two or more people's courts, all of those people's courts shall have jurisdiction over the lawsuit.

Article 23 The civil lawsuits described below shall be under the jurisdiction of the people's court of the place where the plaintiff^① has his domicile; if the place of the plaintiff's domicile is different from that of his habitual residence, the lawsuit shall be under the jurisdiction of the people's court of the place of the plaintiff's habitual residence:

(1) those concerning personal status brought against persons not residing within the territory of the People's Republic of China;

(2) those concerning the personal status of persons whose whereabouts are unknown or who have been declared as missing;

(3) those brought against persons who are undergoing rehabilitation through labour^②; and

(4) those brought against persons who are in imprisonment.

Article 24 A lawsuit brought on a contract dispute^③ shall be under the jurisdiction of the people's court of the place where the defendant has his domicile or where the contract is performed.

被告住所地人民法院管辖。

同一诉讼的几个被告住所地、经常居住地在两个以上人民法院辖区的,各该人民法院都有管辖权。

第二十三条 下列民事诉讼,由原告住所地人民法院管辖;原告住所地与经常居住地不一致的,由原告经常居住地人民法院管辖:

(一) 对不在中华人民共和国领域内居住的人提起的有关身份关系的诉讼;

(二) 对下落不明或者宣告失踪的人提起的有关身份关系的诉讼;

(三) 对被劳动教养的人提起的诉讼;

(四) 对被监禁的人提起的诉讼。

第二十四条 因合同纠纷提起的诉讼,由被告住所地或者合同履行地人民法院管辖。

① plaintiff 原告

② rehabilitation through labour 劳动教养

③ contract dispute 合同纠纷

Article 25 The parties to a contract may agree to choose in their written contract the people's court of the place where the defendant has his domicile, where the contract is performed, where the contract is signed, where the plaintiff has his domicile or where the object of the action is located to exercise jurisdiction over the case, provided that the provisions of this Law regarding jurisdiction by forum level and exclusive jurisdiction^① are not violated.

Article 26 A lawsuit brought on an insurance contract dispute shall be under the jurisdiction of the people's court of the place where the defendant has his domicile or where the insured object^② is located.

Article 27 A lawsuit brought on a bill dispute shall be under the jurisdiction of the people's court of the place where the bill is to be paid or where the defendant has his domicile.

Article 28 A lawsuit arising from a dispute over a railway, road, water, or air transport contract or over a combined transport contract shall be under the jurisdiction of the people's court of the place of dispatch^③ or the place of destination^④ or where the defendant has his domicile.

Article 29 A lawsuit brought on a tortious act^⑤ shall be under the jurisdiction of the people's court of the place where the tort is committed or where the defendant has his domicile.

第二十五条 合同的双方当事人可以在书面合同中协议选择被告住所地、合同履行地、合同签订地、原告住所地、标的物所在地人民法院管辖，但不得违反本法对级别管辖和专属管辖的规定。

第二十六条 因保险合同纠纷提起的诉讼，由被告住所地或者保险标的物所在地人民法院管辖。

第二十七条 因票据纠纷提起的诉讼，由票据支付地或者被告住所地人民法院管辖。

第二十八条 因铁路、公路、水上、航空运输和联合运输合同纠纷提起的诉讼，由运输始发地、目的地或者被告住所地人民法院管辖。

第二十九条 因侵权行为提起的诉讼，由侵权行为地或者被告住所地人民法院管辖。

① exclusive jurisdiction 专属管辖

② the insured object 保险标的物

③ the place of dispatch 始发地

④ the place of destination 目的地

⑤ tortious act 侵权行为