

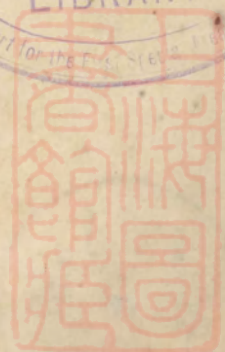


管轄在華外國人實施條例案

特第一號(民國二十年)

向長官第七號

中華民國國民政府外交部編印



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上海圖書館藏書



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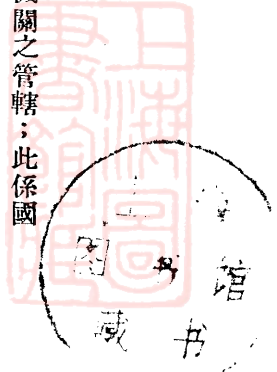
管轄在華外國人實施條例案

國民政府令 民國十八年十二月二十八日

查凡屬統治權完整之國家，其僑居該國之外國人民，應與本國人民同樣受該國法律之支配，及司法機關之管轄；此係國家固有之要素，亦為國際公法確定不易之原則。中國自受領事裁判權束縛以來，已屆八十餘年，國家法權，不能及於外人，其弊害之深，無庸贅述。領事裁判權一日不能廢除，即中國統治權一日不能完整。茲為恢復吾固有之法權起見，定自民國十九年一月一日起，凡僑居中國之外國人民，現時享有領事裁判權者，應一律遵守中國中央政府及地方政府，依法頒布之法令，規章。着行政院，司法部轉令主管機關，從速擬具實施辦法，送交立法院審議，以便公布，施行。此令。

國民政府令 民國二十年五月四日

第一條 查除外國人在華領事裁判權一事，為政府堅定不移之政策，亦為全國人民一致之企望。凡僑居中國之外國人，應一律遵守中國中央政府及地方政府，依法頒布之法令規章，業於民國十八年十二月二十八日明令公布在案。現據行政院，司法部呈稱：『所有實施辦法，業經主管機關擬具管轄在華外國人實施條例十二條，並由立法院審議完竣』等語。茲將該條例公布之，並定自民國二十一年一月一日起施行。此令。



管轄在華外國人實施條例 民國二十年五月四日

第一條 本條例所稱外國人，專指民國十八年十二月三十一日在華享有領事裁判權之外國人民。

第二條 外國人應受中國各級司法法院之管轄。

第三條 在東省特區地方法院，瀋陽地方法院，天津地方法院，青島地方法院，上海地方法院，漢口地方法院，巴縣地方法院，閩侯地方法院，廣州地方法院，及昆明地方法院，及其繫屬之各該高等法院內，各設專庭，受理屬於外國人爲被告之民刑訴訟案件。

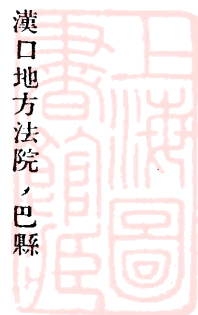
2 第四條 專庭庭長由其所繫屬之法院院長兼充之。

第五條 外國人爲被告之民刑訴訟案件發生在第三條以外之各法院管轄者，被告得用書面聲請受第三條以外之該管法院審理。

第六條 專庭得設法律諮議若干人，由司法行政部遴選品行端方，具有法官資格之法律專家，呈請派充之。
法律諮議不限於中國人。

法律諮議得用書面向法庭陳述意見，但不得干預審判。

第七條 外國人之拘提，或羈押，及其住宅或其他處所之搜索，應依刑事訴訟法行之。



外國人犯有刑法或其他刑事法規上之嫌疑，已經逮捕者，應即移送法院訊問，最遲不得逾二十四小時。

第八條

外國人與外國人或與其他人民所訂仲裁契約，經當事人之一方或雙方聲請時，法院應認為有效，並執行依據該項契約所為之決定書。但有左列情形之一者，不在此限：

一，違背公共秩序者；

二，違背善良風俗者；

三，依普通法律原則應認為無效者。

3 第九條

外國人為民刑訴訟案件當事人，得依法律委任中國或外國律師為訴訟代理人或辯護人。律師章程及其他關於律師之法令，對於前項外國律師適用之。

第十條

外國人犯違警罰者，由法院或警察機關審訊之。警察機關處罰外國人限於十五元以下之罰金，但再犯者不在此限。

前項罰金於判定後五日以內不完納者，每一元易拘留一日。其不滿一元者以一日計算。

第十一條

關於外國人之監禁，羈押及拘留處所，由司法行政部以命令指定之。

第十二條

本條例施行日期及其期間，由國民政府以命令定之。



TRANSLATION

REGULATIONS GOVERNING THE EXERCISE
OF JURISDICTION
OVER FOREIGN NATIONALS IN CHINA
(PROMULGATED BY THE NATIONAL GOVERNMENT
ON MAY 4, 1931)

ARTICLE I.

The term "foreign nationals" used in these Regulations exclusively refers to those foreign nationals who enjoyed extraterritorial privileges in China on the thirty-first day of the twelfth month of the eighteen year of the Republic.

ARTICLE II.

Foreign nationals shall be subject to the jurisdiction of the Chinese Courts of Justice of all instances.

ARTICLE III.

In the District Court in the Special Area of the Three Eastern Provinces and in the District Courts at Shenyang, Tientsin, Tsingtao, Shanghai, Hankow, Chungking, Foochow, Canton and Kunmin, as well as in the Provincial High Courts to which such District Courts respectively belong, Special Chambers shall be established for the trial of civil and criminal cases in which foreign nationals are defendants or accused.

ARTICLE IV.

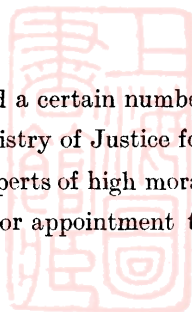
The Chief Judge of the Special Chamber shall be the President of the Court to which it belongs.

ARTICLE V.

Where a civil or criminal case involving a foreign national as defendant or accused arises within the jurisdiction of a Court other than those mentioned in Article III, the defendant or accused may request in writing that the case be heard by that Court.

ARTICLE VI.

To the Special Chambers there shall be assigned a certain number of legal counsellors who shall be selected by the Ministry of Justice for appointment by the Government from among legal experts of high moral character who possess the qualifications necessary for appointment to



judicial offices.

The legal counsellors are not confined to Chinese.

The legal counsellor may submit his views in writing to the Court but shall not interfere with the trial of the case.

ARTICLE VII.

The arrest or detention of a foreign national as well as the search of his private residence or other premises shall be effected according to the Code of Criminal Procedure.

Any foreign national who is arrested on the suspicion of having committed an offence under the Criminal Code or other criminal laws shall be sent to the Court for investigation not later than twenty-four hours.

ARTICLE VIII.

At the request of the party or parties concerned, the Courts shall recognize as valid the agreements for arbitration entered into between foreign nationals or between foreign nationals and other persons, and shall also enforce the awards made in pursuance of such agreements except where:

1. The award is contrary to public order ;
2. It is contrary to good morals ; or
3. It should be regarded as invalid according to the general principles of law.

ARTICLE IX.

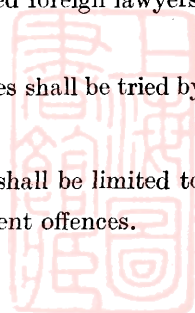
Foreign nationals parties to civil or criminal cases may employ according to law Chinese or foreign lawyers as representatives or counsel.

The Regulations for Lawyers and other laws and regulations concerning lawyers are applicable to the above-mentioned foreign lawyers.

ARTICLE X.

Foreign nationals having committed police offences shall be tried by the Courts of Justice or police tribunals.

The penalty to be imposed by a police tribunal shall be limited to a fine not exceeding fifteen dollars except for subsequent offences.



Where the fine mentioned in the preceding paragraph is not paid within five days after its imposition, it shall be commuted to detention at the rate of one dollar for one day. If the amount is less than one dollar, it shall be reckoned as one day.

ARTICLE XI.

The places for the imprisonment or detention of foreign nationals shall be designated by the Ministry of Justice.

ARTICLE XII.

The date on which these Regulations shall come into force as well as the period during which they shall remain in force shall be declared by a mandate of the National Government.

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