Selected Linguistic Elements of Identification of the Identity in Korean Legal Documents

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Abstract: *The article aims to introduce the issues of identifying of the party's identity in legal discourse in Korean legal reality. To this end, the available legal documents – both collected by the author and generally available on e.g. the websites of Korean courts as well as presidential ordinances – were analyzed. It turns out that not only identifying the party's identity can cause linguistic problems - this affects the understanding of the entire text. In turn, it is an element that has not been fully analyzed due to its common acceptance and not being included in a pragmatic context, while it is an element that provides a good start to the relation, the proper understanding of the message (here: the text) and the cultural background context. To present this, names of the parties were analyzed, Asian abbreviations used instead of the legal names of the parties, their identity expressed by their registration numbers and finally also signatures and seals. It appeared that the identity is especially important in the case of Asian cultures which for those who lack cultural knowledge are a proverbial minefield, and specialized languages (here: legalese and the law language) refer to culture to a greater extent than can be noticed at first glance.*

Keywords: *linguistic elements, identity, Korean language, Korean legal documents, LSP*

1. Introduction

The process of identification of a given natural or legal person at law takes place on the basis of access to specific data. Some identifying elements may be treated as personal data which are not generally accessible; however, some may be treated as data which have to be provided within the frames of registration data. They can be expressed linguistically and non-linguistically (graphics etc.). Such selected linguistic elements identifying the user of legal reality may be found even in documentation. Insofar as in the South Korea there is also the Act on Natural Person Data Protection[1] indicating which type of data may be revealed and which may not, the circumstances imposing on particular persons the obligation to state certain data allowing for their identification, should be taken into account[2].

This paper[3] will analyse selected aspects of linguistic identification of the identity of a party or participants in the discourse in Korean documents of legal or law nature constituting text messages. This knowledge is, in Author's opinion,

[1]Act on Natural Person Data Protection, enacted 26.7.2017 – 개인정보 보호법 [gaein jeongbo boho-beob], 법률 [beobryul je] 제 14839 호 [ho], 2017. 7. 26.

[2] Some data must be public - compare data and information in the Polish Central Register and Information on Business Entities.

[3] Due to the extended and complex scope, the issue of personal data protection will not be analysed here.

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necessary for teaching specialized languages, to which legalese and the language of law belong.

2. Research material and research method used

The research material for this subject includes selected Korean documents of legal or law nature, created under relevant Korean acts. In most cases such documents include civil law agreements or declarations or legal opinions drafted under regulations of other branches of the law which were gathered by the Author within the corpus which is being created.

The Author used the following research methods:

1. linguistic analysis of the source text in the Korean legal environment
2. analysis of cultural elements in the Korean legal environment
3. linguistic analysis of the document structure enriched with examples of particular elements related to the identity.

The spelling of Korean terms used by the Author reflects the applicable Korean provisions, i.e. according to the Act on Spelling in Transcription 국어의 로마자 표기법 [gugeo-ui romaja pyogibeob] dated 7 July 2000. It should be noted that each case when Korean law is mentioned refers to South Korean law unless it is indicated otherwise. All references to legal acts are valid as at 14 February 2019. Source materials originate from private collections of the Author unless it is indicated otherwise and the source is stated.

3. Selected aspects of Korean personal and individual identification in documents

To identify a natural or legal person in Korean legal documents numerous linguistic elements may be used. To depict the complexity of this issue, a few most important elements have been selected and presented, i.e. names of discourse parties and participants expressed most often in the form of a proper name and cultural abbreviations; signatures certifying not only the identity but also confirming the content included in the documentation and corporate and personal seals and stamps which in the Korean legal reality not only constitute a visual but also a linguistic element, and the imprint of a relevant stamp or seal makes the document valid. Consequently, the seal or stamp is in Korea equivalent to a signature.

3.1.Names of parties to and participants in the discourse

In case of Korean legal and law documents used in circulation personal references can be found to persons/parties taking part in a given legal relation or related to it. Such references are made in a few ways:

i) linguistic statutory references:

1. through names of parties to a legal relations, e.g. in contracts;

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2. through names of legal and law discourse parties, e.g. in court documents or legal opinions executed by the bodies authorized to do so;

ii) linguistic customary or culture references through using abbreviations functioning in and understandable for a given cultural legal circle;

It is worth trying to propose the identity classification through:

i) inclusion, i.e. incorporation in a group described by a specific denomination and having typical features, positive or negative ones.

ii) exclusion, understood here as exclusion from a given group[4]

which leads to identification of a party/person through a specific group, e.g. professional one. In the legal and law discourse a person may be defined in this way, by attribution of this person to the group of e.g. judges or lawyers, prosecutors or solicitors also in the professional lect aspect.

Statutory references to identity not only allow for identification of a participant/a party but also describe the role of a given participant in the specific situation. Depending on which source (legal act/custom/culture) the reference is made to, identification of the identity may be more or less difficult. Legal acts usually state the nomenclature very precisely, indicating a given term for a given participant, stating the scope which defines him to an extent sufficient or required by a given legal act[5]. It refers both to classic and scope-oriented definitions. Some identities become so "independent" that they function also beside a given scope/law branch; however, some are defined strictly through the prism of a given legal act (see for example Zedler 91-97 and his research on the term *curator*) and are limited by the rights granted by it.

[4] Inclusion and exclusion in the social context see Grotowska-Leder, Faliszek. However, this phenomenon can be translated into the linguistic area in the context of belonging to a given group or not belonging to it. These assumptions may be observed in lects,

[5] Normativity of this legal definition is underlined by Malinowski 215-216, where he writes about the sense of a given word or characteristics of the described thing. He also notes that: "Legislator formulating a legal definition and placing it in a legal text sends a message to the recipient of this text saying in which meaning the defined word or expression is used here. Being placed in a legal text, the legal definition becomes normative, which consists in the fact that it imposes on the person interpreting the law specific linguistic behaviour in the scope of attributing the meaning to the word (expression) constituting definiendum in this definition. It is a specific meta-norm imposing the obligation to attribute to the defined expression (definiendum of the legal definition) only such a meaning which was stated in the definition (…)" (217). Quotation in Polish: "Legislator, formułując definicję legalną i umieszczając ją w tekście prawnym, przekazuje adresatowi tego tekstu informację, w jakim znaczeniu posługuje się definiowanym wyrazem lub wyrażeniem. Poprzez umieszczenie jej w tekście prawnym definicja legalna uzyskuje charakter normatywny polegający na tym, że nakazuje ona osobie przeprowadzającej wykładnię prawa określony sposób zachowania językowego w zakresie przypisywania znaczenia wyrazowi (wyrażeniu), stanowiącemu definiendum w tej definicji. Jest ona swojego rodzaju metanormą, nakazującą przypisywanie definiowanemu zwrotowi (definiendum definicji legalnej) tylko takiego znaczenia, jakie zostało określone w definicji (…)" (217).

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This leads to both linguistic and legal polysemy – many scholars write about polysemy of the legal language (legalese and language of the law), to name only a few describing this issue in European languages – see Sourioux, Lerat, for Polish for example Zieliński, for Asian Languages, namely Chinese see for example Grzybek, Xin.

Names-terms of the parties to a legal relation constitute an element of identity precisely in this context as despite the apparent lack of stating the data of the person/company, they create the identity of the party, indicating his empowerment, scope of rights and limitations and placing him in the communication context and system. It is visible in Polish, and also present in the Korean language of the law as a linguistic phenomenon. This is illustrated by the following examples from Korean documents.

Example no. 1:

증여자 [Jeungyeo-ja] *name and surname*	Donor *name and surname*
수증자 [Sujeung-ja] *name and surname*	Donee *name and surname*

Example no. 2:

채권자 [chaegwon-ja] OOO[6]	Creditor *name and surname*
채무자 [chaemu-ja] OOO	Debtor *name and surname*

Example no. 3:

당사자 [dangsa-ja]	party/parties
제 3 자 [je-sam-ja]	3rd party
양당사자 [yang-dangsaja]	both parties

Example no. 4:

문제인 대통령 [Mun Jae-In daetongryeong]	President: *Mun Jae-In*
권순일 재판장 [Gwon Sun-Il jaepanjang]	Chairman of the panel of judges*: Gwon Sun-Il*
판사: 이기삼 [pansa: Lee Gi-Sam]	Judge: *Lee Gi-Sam*

The quoted examples show the identity of the parties in a given situational context, e.g. in a legal relation, through a reference to their statutory role. The donor, namely the person making a donation and the donee, namely the one receiving it, take the opposite places (example no. 1). The same situation is clear in case of a debtor and creditor (example no. 2) - the character of the roles accepted by them is explicitly stated also thanks to the language which describes them. Linguistic analysis makes it clear that selected morphemes and words are used, which maintain however specific phraseological connectivity and which underline the relations between the participants. A debtor in the Korean example is literally *the one who is indebted to the person to whom the debt is payable.* A creditor in

[6] OOO is often used to indicate where the data should be placed in the text.

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turn is *a person connected to a debtor by a debt.* Example no. 3 depicts the reference to the identity of a party or participants in a given relation not through their statutory name, but using a term with broader connotation, namely a more general one, usually defined by the content preceding it. So such specialist terms from obvious official language [7] transfer the message, in Author's opinion, to the linguistic world of a semi-official language, on the one hand simplifying the statutory terms, and, on the other hand, maintaining the stylistic tone. Example no. 4 shows in turn the nomenclature of the discourse participants depicted in the documentation through references to the functions performed by them or in the aspect of the professions practiced by them.

It is accepted to state, in addition to the statutory name of a party, for more precision, also more detailed identification data.

Most often, in case of natural persons, first name and surname are stated (compare example no. 4). In Korean documents a different order than the one in the Western systems (e.g. in Europe or the USA) is used. It means that first the surname is stated, then the first name(s). Specificity of the language (syllabicity and prevailing share of Chinese-origin morphemes (see Sohn 87 or Lee, Ramsey 4-9) and stylistics of the Korean language of law) leads to the fact that first names and surnames are usually short, one-segment ones (surname) or one- or two-segment ones (first names). Discrepancies in the spelling of Korean surnames[8] in the Latin alphabet are connected with old spelling system[9], which is consistently being abandoned by the Koreans and has been replaced with a new one since 2000. However, there is no obligation to change the spelling retroactively, which means there are two possibilities: a change to the new one or keeping the old spelling[10]. In case of keeping the old spelling, the previous spelling is copied when a document changes and the new one is used accordingly in case of persons who are registered for the first time. Citizens may declare the willingness to change and adjust the

[7] The Korean language of law is treated, on the basis of its political and cultural grounds, as an official language. See Choi Hye-Won 최혜원 13.

[8] It was possible to write down surnames as for example: 최 as Choi, Chwe, Choe; 박 as Park or Pak; 백 as Baik, Paik, Baek; 이 as Yi, Lee, Li etc.

[9] In the period of 1959-1984 in Korea the spelling reflecting the provisions of administrative regulations 한글의 로마자 표기법 [hangeul-ui romaja pyogi-beob] *Rules for using the Latin alphabet for writing Korean* was used, McCune-Reischauer 표기법 [McCune-Reischauer pyogi-beob] *Writing rules according to McCune-Reischauer* was in use in the period of 1989-2000 and since the second half of 2000 the act regulating the spelling pursuant to 국어의 로마자 표기법 [gugeo-ui romaja pyogi-beob] *Rules for using the Latin alphabet in writing in the national language* has been in common use. Main differences between the particular systems consisted inter alia in differentiation between voicing and palatalization, location of the phone in the word (onset, nucleus, rhyme) and other phonetic phenomena.

[10] This is permitted by S. 7 of the said regulations, saying that the previous spelling may still be used in case of personal data of natural and legal persons.

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transcription to the applicable law when replacing the documents with new ones or applying for new ones.

If this is required by the document, the number of one of potential Korean *Identity Cards* 신분증 身分證 [sinbun-jeung] is stated. Such a document must contain the following personal data: first name and surname, date of birth and place of residence, a photo. Depending on which is the scope of rights confirmed by a given document, it is issued in Korean or in a bilingual version with English as *lingua franca*. The most common is the use of Korean registration document [11] 주민등록증 住民登錄證 [jumin deungnog-jeung], which in practice is used as an identity card as it contains all the data necessary for identification of the person using it. It is randomly shown in example no. 5 which underlines the usage of Korean registration confirmation as a commonly used identity card. In contracts verification of the identity document forms the standard way of confirming it, in other documents the appearance of this element depends on formal requirements as for the content. In other situations the identity may also be confirmed with a passport 여권 旅券 [yeogweon] or a driving licence 운전면허증 運轉免許證 [unjeon-myeongheo-jeung].

Example no 5:

주민등록번호 [jumin deungnog beonho]: 110656-4932XXXX
Identity card number: 110656-4932XXXX

Example no 6[12]:

상호 (법인명) [sango (beobin-myeong)]: (주) 엠아이티마스 [(ju) Emaitimaseu]
English translation as in the document: *Name of company: Mitmas, c.o. Inc.*
Suggested translation: Name of company (legal person): Mitmas c.o.Inc.
사업자등록번호 [saeobja deungnog beonho]: 106-86-21796
Company register number: 106-86-21796
주민 (법인) 등록번호 [jumin (beob-in) deungnog beonho]: 110111-2832924
Identity card number (legal persons registration number): 110111-2832924

[11] This paper will not refer to Korean documents aimed at confirming foreigners' identity, such as *foreigner's residence card* called in Korea an *alien registration card* 외국인 등록증 外国人登录证 [oegugin-deungnog-jeung].

[12] Data retrieved from websites: https://www.mitmas.com/wp-content/uploads/2018/09/MITMAS_BUSINESS_LICENSE_EN.pdf, accessed 28.02.2019, https://link.do/HaUQI, accessed 28.02.2019 r.

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Example no 7[13]:

사업자등록증 (법인사업자) 등록번호 [saeobja deungnog-jeung (beobin-saeobja): 566-81-003XX
Company register number (legal person business number): 566-81-003XX

법인등록번호 [beob-in deungnog beonho]: 11XX11-2841024
Legal person register number: 11XX11-28341024

Legal persons, organizational units not having legal personality and partnerships and companies are in turn identified on the basis of relevant legal acts regulating their scope of activity and profile. In case of commercial companies and partnerships, in addition to individualized name an extension is common, indicating the type of a business entity. Particular attention should be paid to discrepancies between types of commercial companies and partnerships under Polish law and Korean law, which lead to the fact that the extension of Korean *joint-stock companies* 주식 회사 [jusig hwesa], is often abbreviated to (주) [ju] and may be translated in the context as a joint stock company or a limited liability company or a limited liability partnership (including limited joint-stock partnership). Legal entities in turn use either 법인 [beob-in] *legal person* or if they start business, then they make the name more precise by adding the extension 법인사업자 [beob-in saeob-ja] *a legal person running a business.* This is partially shown in example no. 6 and partially in example no. 7.

Korean legal persons, including the legal persons starting a business, as well as commercial partnerships and companies, despite identifying themselves by using a name and scope of business, also use an identification number which in the Korean legal reality constitutes a combination of entry into the business register, Tax Identification Number and Polish National Court Registry number – 사업자등록번호 事業者登錄番號 [saeobja deungnok beonho]. As the said examples no. 6 and 7 show, this number is the necessary element confirming the business profile. This is a number combining functions which in the Polish reality are hidden in separate identification profiles. This number is used in Korea for tax settlement, certifies also the entry into the business entity register. Verifying a given company or a legal person using this number you may also receive information about the financial standing of the entity, i.e. if it still exists or is e.g. suspended etc. Obviously, it gives a wide range of information depending on which user it is used for. It also constitutes another point of the document after which the identity of the person is confirmed. In case of legal persons not running a business it is the

[13] The first entry in the example excerpted from https://stjohns.co.kr/STJohns_common/images/homepage/common/business-registration.pdf, accessed 28.02.2019 r. The other one is from Autor's Korean legal documents private collection.

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number from legal person register 법인등록번호 [beob-in deungnog beonho], with the same usage profile.

Apart from the statutory nomenclature, made precise in the said way, i.e. through using proper names and/or identification numbers, in the document content you may also find linguistic customary elements having cultural origins.

The reference to abbreviations 갑 (甲) [gab], 을 (乙) [eul] and 병 [byeong] forms a linguistic cultural element in Korean documents of legal and law nature, e.g. civil law contracts, commercial law contracts or labour law contracts. The first two are applied towards the main parties to a legal relation, the third one names subsequent parties to a given legal relation, e.g. a subcontractor. Sources of nomenclature of the terminology which is still contemporarily used on the basis of custom should be searched for in the Chinese legal terminology and cultural heritage[14]. The application of the first few abbreviations refers to traditional Chinese order (see 하시우치 타케시 Hasiuchi Takeshi 36) and the terms themselves depict 갑을관계(甲 乙 關 係) [gabeul gwangye] – the cultural phenomenon of subordination relation between one weaker party and one more powerful party, introducing an element not known in most western legislatures underlining that the parties enjoy equal rights.

Example no 8:

갑과 **을**은 이 계약의 이행에 있어 하도급거래공정화에 관한 법률을 준수하여야 한다.

[**gab**-gwa **eul**-eun i gyeyag-ui ihaeng-e isseosseo hadogeub-georae gongjeonghwa-e gwanhan beobryul-eul junsuhayeoya handa]

Suggested translation into English: *The **Client** and **Contractor** comply with the act on transparency of relations with the contractor in order to fulfill this contract.*

Example no 9:

갑은 을에게 목적물 납품을 위한 작업을 시작하기 전까지…

[**gab**-eun **eul**-ege mogjeogmul nabpum-eul wihan jageob-eul sijag-hagi jeon-ggaji…]

***Supplier**, before delivering the goods to the **Buyer** ...*

What is characteristic is that despite naming the parties with their statutory terms and giving any other data, allowing for their identification, in the subsequent content you may find abbreviations to which references are located next to the statutory terms. Although the said examples no. 8 and 9 indicate the relevant parties in translation, the original Korean text (marked in transcription) uses only those abbreviated names. Statutory names themselves often constitute the

[14] Ten names, where subsequent parties include 정 (丁) [jeong], 무(戊) [mu], 기(己) [gi], 경(庚) [gyeong], 신(辛) [sin], 임(壬) [im], 계(癸) [gye] indicate the connection with taoist philosophy and simultaneously Chinese linguistic heritage. They refer to heavenly trunks forming the basis for calculation of cycles in the Asian calendar.

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introduction, and in the content of the text customary and more linguistically economical abbreviations are used. This intends not only to keep the stylistics of the whole legal document as functioning in the Asian official circulation, but also to underline the tradition, still vivid in the language of law.

3.2.Signatures

A signature is an intrinsic element confirming the identity of a given person. In addition to other means available nowadays, aimed at identity verification, such as, for example, an imprint of the thumb or other fingers or a scan of the iris, applied depending on the needs, [15]the most often used element indicating the identity is just identification by first name and surname, confirmed with a handwritten 서명 署名 [seomyeong] or electronic signature 전자 서명 電子署名 [jeonja seomyeong]. Handwritten initials are not considered a signature with all its binding legal effect.

Example no 10:

성명 (대표자): 김학원 Kim, Hag Won [*names written in double system writing – in Korean along with a personal Latin transcription*]
[seongmyeong (daepyo-ja)]: Kim Hag-Weon [*writing in a present system*]

Example no 11:

사용자 [sayongja]: XX 주식회사 [jusig hwesa][*writing only in Korean alphabet*]

Employer: XX inc.
근로자 [geulloja]: 임상호 [*writing only in Korean alphabet*]
Employee: Im Sang-Ho

Example no 12:

위임자: 안소진 Ahn SoJin [wiim-ja: An So-Jin]
Mandator/Delegate: Ahn So-Jin

Most often Korean documents contain a place for a signature spelled according to Korean alphabet, but recently, in particular in documents which are to be used outside Korea, a separate place appeared for a signature in Latin alphabet.

[15] Other conditions will have to be met when verifying the access to banking data (the Korean identity card, Korean bank book, stamp/seal etc.), other - when verifying passport data for migration purposes, e.g. when crossing the border (a scan, thumb imprint). Some regulations in the Polish law may be found inter alia in the Act dated 1 March 2018 on Counteracting Money Laundering and Terrorism Financing, s. 34 et seq. http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20180000723/U/D20180723Lj.pdf (accessed 13.02.2019 r.). In turn, Korean legal regulations are included in relevant acts concerning identity documents, e.g. Act on Population Registration 주민등록법 [jumindeungneug-beob] dated 02.12.2016 or already mentioned Act on Personal Data Protection 개인정보 보호법 [gaein jeongbo bohobeob] dated 2017. 7. 26.

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The said examples show how, next to the Korean spelling, Latin spelling appears, in the way defined in footnotes no. 9 and 10. In turn, example no. 12 shows various ways of spelling the same first names and surnames (this issue was already discussed in the content of this paper).

3.3.Personal or corporate seals and stamps

Korean documents may be signed both with a first name and surname and sealed/stamped with a legally registered seal/stamp[16]. A standard personal seal is round and contains the first name and surname in the Korean alphabet, earlier the seal contained however personal data spelled with Chinese characters. Such characters may appear still in official state documents, but as the use of ideograms is being more and more abandoned in order to make the official language more Korean and pure, also in this aspect the shift towards using the alphabetical spelling can be observed.

The place for a personal seal in a document is marked with the term 인 [in]. It is another symptom of morphemicity of the Korean language. 인 [in] may refer to 196 Chinese characters[17], which means that each time it may mean something totally different. In case of documents, the context is defined by direct content setting and most often related to location in the document layout. It often preceded by the phrase 서명 또는 인 [seomyeong ddoneun in] meaning *the signature or seal*, placed at the bottom of the document, which confirms that the content above on a given page or in a given file has been read.

Example no. 13:

Chairman of the adjudication panel
Judge Baek Jeong-Hyeon [round personal seal]
Judge Yim Seong-Min [round personal seal]
Judge Yoo Seon-U [round personal seal]

Example no. 14[18]:

[16] The use of personal seals in another Asian country, namely Japan, was described by Yuki 23-24. In South Korea there are a few types of seals as well. This paper analyses the seal as an identification element of the identity.

[17] According to the query in Chinese Character in Korean Language Dictionary Online, https://hanja.dict.naver.com/search/mean?query=%EC%9D%B8&searchOption=sortrank&ordr=dsc , accessed 26.02.2019.

[18] https://www.mitmas.com/wp-content/uploads/2018/09/MITMAS_BUSINESS_LICENSE_EN.pdf, accessed 28.02.2019.

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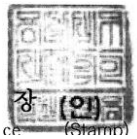
Company seal of the head of the Tax Office in Yongsan (South Korea) 

Example no. 15[19]:

Company seal of the head of the Tax Office in Mapo (South Korea)

Consequently, in this usage 인 [in] will be the spelling of the Chinese character 印 [chiń. yìn] and will mean a Korean personal or corporate seal – 도장 圖章 [dojang]. Another term which appears very often in documents and indicates the place for the imprint of a personal seal is 날인 捺印 [narin] which, taking the context into account, will be the equivalent of the said 인 印 [in]. Square corporate stamps may be used also, however, they are not more significant in case of documents - the key thing here is to affix the personal seal of a representative of a given company. Corporate seals appear in turn in case of certifications or any certificates which must be stamped with the corporate seal with the personal data of the person issuing a given document. This is illustrated with examples no. 14 and 15.

4. Conclusions

A document in legal circulation may be treated as more or less personalized, which accordingly translates into adequately distributed participation of linguistic elements identifying the identity of given parties or participants of a given discourse. Consequently, it may be observed that in Korean documents, apart from obvious reference to provisions on using national language, there is a tendency to simplify and facilitate the use of these documents abroad. Apart from standard linguistic elements such as proper names (e.g. first name and surname of a natural person, proper name of a business entity or a legal person, addresses with stating the town/city/village), numeric data constituting the coded picture of the financial and legal status (number of the Korean registration document or number of business entity register and number of legal person register) appear also as elements confirming the legal and linguistic tradition. The most significant example here involves abbreviated nomenclature of the parties which originates from the philosophy of the language of law and specificity of religious and philosophical syncretism in Korea. Linguistic identification of identity in Korea

[19] https://link.do/HaUQI, accessed 28.02.2019.

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reflects the applicable regulations which simultaneously depict the combination of the tradition and modernity.

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