

KRS affairs: a hypothetical case

Kobe Rail Service Ltd (KRS) is a corporation registered under the laws of Japan.

In 2005, KRS formed a joint venture called Chemin de Fer Contractors (CFC) under the laws of Ruritania in order to prepare and submit tenders for, and if successful to construct, railway facilities in the State of Ruritania known as the Bay Side Railway Project. CFC was established pursuant to a joint venture agreement concluded between two participants, KRS and Ruritania Rail Service (RRS), a Ruritanian local corporation. KRS was selected as the Leader of the joint venture.

On 14 December 2006, a contract was concluded between KRS and the Ruritanian National Railway (RNR). RNR is a 100 % government-owned company established by a Ruritanian legislation. The contract was initially valued at approximately €500 million. Construction under the contract began in early 2007 with completion dates foreseen in April 2009.

On 15 November 2007, the then ruling Liberal Democratic Party (LDP) was ousted by a general election that gave the Social Justice Party (SJP) an absolute majority in the Ruritanian unicameral parliament. The government formed by the SJP began to review all the important infrastructure projects commenced by the former LDP government.

On 1 April 2008, the Ruritanian parliament adopted a Railway Construction Law, which stipulated that every railway construction should be carried out exclusively by companies established under the law of Ruritania and a majority of the shareholders of which should be Ruritanian nationals. The Law also stipulated that the existing contract incompatible with it should be automatically and immediately terminated without compensation.

KRC tried to renegotiate its contract with the RNR but the Ruritanian government finally took over KRC's assets situated in Ruritania on 2 October 2008.