

Act XXVIII of 2017
on private international law

CHAPTER I

GENERAL PROVISIONS

1 Scope of the Act

Section 1 This Act shall determine

- a)* which state's law shall be applied,
- b)* upon which rules the Hungarian courts establish their jurisdiction and which procedural rules they follow, and
- c)* the conditions under which decisions of foreign courts can be recognised and enforced in private law relationships containing foreign elements.

Section 2 The provisions of this Act shall apply in matters that do not fall under the scope of a directly applicable legal act of the European Union with general application or an international treaty.

2 Interpretative provisions

Section 3 For the purposes of this Act:

- a)* in the absence of any provision to the contrary, the term court shall also accordingly cover other authorities acting in civil matters,
- b)* the habitual residence of an individual is the place where, based on all the circumstances of the given legal relationship, the actual centre of the individual's life is; when determining this, the facts indicating the intention of the individual concerned shall also be taken into account,
- c)* domicile is the place where the individual person resides permanently or with the intention of permanent settlement.

3 Classification

Section 4 (1) When deciding which conflict-of-law rule is to determine the law applicable to the factual situation, the concepts of Hungarian law shall be followed.

(2) Any legal institution unknown to Hungarian law shall be classified pursuant to the foreign law regulating that legal institution, with special regard to its function and purpose served in the foreign law.

(3) If a foreign legal institution is not unknown to Hungarian law but its function or purpose is different from what it is under the foreign law, then the foreign law shall also be taken into account in the course of classification.

(4) Paragraphs (1) to (3) shall apply accordingly to the determination of jurisdiction and the recognition and enforcement of foreign decisions.

4 Renvoi

Section 5 (1) If the conflict-of-law rules of this Act determining the applicable law refer to a foreign law, the substantive law rules of the foreign law that directly govern the matter shall apply.

(2) If, by virtue of this Act, the applicable foreign law is determined on the basis of nationality and the conflict-of-law rule of the foreign law

- a)* refers back to Hungarian law, the Hungarian substantive law shall apply;

b) refers onwards to a different foreign law, the substantive law rules of that law shall apply.

5 States with multiple legal systems

Section 6 (1) If, pursuant to this Act, the law of a state consisting of multiple territorial units, where each territorial unit has its own legal system, applies to the factual situation, the law of the territorial unit to be applied shall be determined by the interterritorial conflict-of-law rules of the given state.

(2) If, pursuant to this Act, the law of a state that has different legal systems with regard to different groups of persons applies to a factual situation, the interpersonal conflict-of-law rules of the given state shall determine the law to be applied.

(3) If there are no interterritorial or interpersonal conflict-of-law rules in the applicable law or their content cannot be established, or when those rules do not lead to the determination of one applicable law, the legal system of the given state having the closest connection with the factual situation shall apply.

6 Application of foreign law and establishing its content

Section 7 (1) The court shall apply the foreign law *ex officio*.

(2) The court shall interpret the foreign law in accordance with the rules and practices of that foreign law.

Section 8 (1) The court shall establish the content of the foreign law *ex officio*.

(2) The court may use any means to establish the content of the foreign law, in particular the submissions of the parties, expert opinions or the related information provided by the minister responsible for justice (hereinafter "the Minister").

(3) If the content of the foreign law cannot be established within a reasonable period of time, the Hungarian law shall apply. If the given factual situation cannot be assessed upon the rules of the Hungarian law, the foreign law having the closest connection to the applicable law shall apply.

7 Choice of law

Section 9 (1) Unless otherwise provided by this Act

a) the choice of law shall be explicit,

b) the law of the state which would be applicable to the given relationship should the choice-of-law agreement be established and valid, shall apply to the establishment and validity of that agreement; however, the choice of law shall also be deemed established and valid if it complies with the law of the state where the agreement has been concluded.

(2) The choice of law may not violate the acquired rights of third parties.

8 General escape clause

Section 10 (1) If, based on the circumstances of the case, it is obvious that the case is manifestly more closely connected with another country's law than the law determined by this Act, that other law may exceptionally be applied. The court shall decide on this within no more than thirty days from the receipt of the defendant's response.

(2) Paragraph (1) shall not apply if the applicable law was determined by choice of law.

9 General auxiliary rule

Section 11 If this Act does not contain any provision on a legal relationship which falls under its scope, the law of the state having the closest connection with that legal relationship shall apply.

10 Public policy clause

Section 12 (1) The foreign law determined by this Act shall be deemed contrary to Hungarian public policy and therefore shall not be applied if the result of its application in the given case would clearly and seriously violate the fundamental values and constitutional principles of the Hungarian legal system.

(2) If the violation of public policy cannot be averted in any other way, the provisions of the Hungarian law shall apply instead of the refused provisions of the foreign law.

11 Imperative rules

Section 13 (1) Irrespective of the law determined by this Act, those provisions of the Hungarian law shall apply, from the content and purpose of which it can clearly be established that they are subject to unconditional enforcement in legal relationships falling under the scope of this Act (imperative rules).

(2) The provisions of the law of any other state subject to unconditional enforcement may be taken into account if they are closely connected with the factual situation and are of decisive importance regarding its assessment.

12 Change in the applicable law

Section 14 Change in the circumstances determining the applicable law shall only have effect on legal relationships established validly according to the law applicable prior to the change if this Act expressly provides so.

CHAPTER II

NATURAL AND LEGAL PERSONS

13 The individual as subject of law

Section 15 (1) The legal capacity, the capacity to act and the personality rights of individuals shall be assessed pursuant to their personal law.

(2) The personal law of an individual shall be the law of the state of which the individual person is a national.

(3) If the individual has multiple nationalities, and one of those nationalities is Hungarian, his personal law shall be the Hungarian law, unless the individual has a closer connection with his other nationality.

(4) If an individual has multiple nationalities, none of which is Hungarian, his personal law shall be the law of the state of his nationality with which he is most closely connected with respect to the relevant circumstances of the given case.

(5) The personal law of an individual who has multiple nationalities, none of which is Hungarian and has no closer connection with any of his nationalities, or whose nationality cannot be established; furthermore, the personal law of a stateless person shall be the law of the state where he has his habitual residence.

(6) If the personal law of an individual cannot be established based on paragraphs (2) to (5), the Hungarian law shall apply.

(7) The Hungarian law shall apply to the legal relationships specified in paragraph (1) of persons having the right to asylum or tolerated status in Hungary.

Section 16 (1) The names of individuals shall be determined by their personal law or, upon request, by the Hungarian law.

(2) If the individual person has multiple nationalities, he may choose the law of any of his nationalities to apply to his birth name.

(3) At the joint request of the parties, the law of the nationality of either spouse or the Hungarian law shall apply to the marital name. In the absence of a joint request, section 27 shall apply.

(4) If the marriage is dissolved or declared invalid, the law based on which the marital name was established shall apply to names.

(5) The Hungarian national's birth and marital name registered validly in accordance with the law of another state shall be recognised in Hungary if the Hungarian national concerned or his spouse is also a national of that other state, or if the habitual residence of the Hungarian national concerned is in that state. Names contrary to Hungarian public policy shall not be recognised.

Section 17 (1) Those who have no capacity to act or have limited capacity to act pursuant to their personal law shall be deemed to have capacity to act with respect to everyday contracts of minor importance that do not require special consideration and are concluded and fulfilled in Hungary, provided that the person would have capacity to act pursuant to the Hungarian law.

(2) Those who have no capacity to act or have limited capacity to act pursuant to their personal law, but would have capacity to act pursuant to Hungarian law, shall be deemed to have capacity to act with respect to their other property transactions as well, if the legal consequences of such transaction are to occur in Hungary.

Section 18 (1) The law of the state where the person concerned has his habitual residence at the time of the assessment of the underlying facts shall apply to the conditions, establishment, modification, termination or legal effects of placement under legal custodianship or of other protective measures not affecting the capacity to act of a person of full legal age, as well as to the legal relationships arising therefrom.

(2) If it is justified by the interest of the person of full legal age concerned, the proceeding court may exceptionally apply or take into account the law of the other state with which the case has a closer connection.

Section 19 (1) The provisions of section 18 shall apply accordingly to the establishment, validity, scope, modification and revocation of juridical acts made by persons of full legal age having capacity to act concerning the future limitation of their capacity to act or the lack of their ability to protect their interests, with the proviso that, with regard to those juridical acts, the law of the state where they have their habitual residence when making the juridical act shall apply.

(2) By way of derogation from paragraph (1), the person of full legal age having capacity to act may choose, in a written statement,

- a) the law of the state of his nationality,
- b) the law of the state where he had his habitual residence earlier or,
- c) with regard to a particular asset, the law of the state in the territory of which the asset is located.

Section 20 The law of the state of the court appointing the legal custodian shall apply to the representation of a person prevented from taking care of his own affairs and to ad hoc legal custodianship.

Section 21 (1) The personal law of the missing person shall apply to declaring that the person is presumably dead or missing, and to the establishment of the fact of death.

(2) If the personal law of the missing person is not the Hungarian law, the Hungarian law shall apply if there is a legal interest in Hungary.

14 Legal persons

Section 22 (1) The personal law of a legal person shall be the law of the state in the territory of which the legal person has been registered.

(2) If the legal person has been registered in accordance with the laws of more than one state, or if registration is not required according to the law of the state of the seat indicated in the instrument of incorporation, the personal law of the legal person shall be the law of the state where the seat indicated in the instrument of incorporation is located.

(3) If a legal person does not have the seat indicated in its instrument of incorporation or has more than one seat, and none of those has been registered in accordance with the law of any state, the personal law of the legal person shall be the law of the state in the territory of which it has its central place of administration.

(4) The legal status of a legal person, in particular

- a) its legal capacity,
- b) its formation and termination,
- c) its statutory and organisational representation,
- d) its personality rights,
- e) its organisation,
- f) the legal relationships between its members,
- g) the legal relationships between the legal person and its members, and
- h) the liability of the legal person, its members and executive officers for the obligations of the legal person

shall be assessed pursuant to the personal law of the legal person.

(5) The provisions of this section shall also apply accordingly to legal entities without legal personality.

15 Violation of personality rights

Section 23 (1) If personality rights have been violated, the law of the habitual residence of the aggrieved party or, for legal persons, the law of the seat indicated in their instrument of incorporation shall apply. Whether a violation occurred shall be assessed, and the consequences of the violation shall be established in accordance with that law.

(2) Anyone whose personality rights have been violated may choose, not later than in the preparatory stage of the civil procedure and within the time limit set by the court:

- a) the law of the state where the centre of his interests is located,
- b) the law of the state where the violating party's habitual residence or, for legal persons, the seat indicated in the instrument of incorporation is located, or
- c) the Hungarian law.

(3) Paragraphs (1) to (2) shall also apply if there is a risk of violation of personality rights.

CHAPTER III

FAMILY LAW

16 General rules

Section 24 The common nationality of the spouses shall be the nationality they both share. If the spouses have more than one common nationality then, for the purposes of this Chapter, the common nationality with which they are most closely connected based on all the circumstances of the case shall apply.

Section 25 Family law relationships concerning the child shall be governed by the Hungarian law if that is more favourable for the child.

17 Specific rules on marriage

Section 26 (1) The marriage shall be valid only if, at the time of the marriage, the conditions laid down in the substantive law of both parties' personal laws are satisfied.

(2) The law in force at the place and date of the marriage shall apply to the formal requirements of the validity of the marriage.

(3) The provisions relating to the conclusion of marriage and its validity shall also apply accordingly in matters of establishing the existence or non-existence of marriage.

(4) A marriage shall not be concluded in Hungary if there is an insurmountable obstacle to it pursuant to the Hungarian law.

Section 27 (1) The personal and property relations between the spouses shall be governed, in accordance with the differences specified in section 16 (3) to (5), by the law of the state of which both spouses are nationals at the time of assessment.

(2) If, at the time of assessment, the spouses have different nationalities, the law of the state in the territory of which the spouses have their shared habitual residence or, in the absence of such, where the spouses had their last shared habitual residence, shall apply.

(3) If the spouses had no shared habitual residence, the law of the state of the proceeding court shall apply.

Section 28 (1) The spouses may choose the law applicable to their property relations, provided that it is one of the following laws:

a) the law of the state of which one of the spouses is a national at the time of the conclusion of the agreement,

b) the law of the state in the territory of which one of the spouses has his habitual residence at the time of the conclusion of the agreement, or

c) the law of the state of the proceeding court.

(2) Parties to be married shall also be entitled to the choice of law.

(3) The choice of law should be made not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

(4) Unless the spouses agree otherwise, the choice of law to be applied to the property relations between them shall have legal effect only for the future.

Section 29 A matrimonial property contract shall be valid as to form also if it complies with the law of the place where it has been concluded.

Section 30 Spouses may choose the applicable law referred to in Articles 5 to 7 of Council Regulation (EU) No 1259/2010 not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

18 Family status

Section 31 (1) The personal law of the child applicable at the time of his birth shall apply to the establishment of paternity or maternity, as well as in the matter of rebuttal of the presumption of paternity.

(2) The acknowledgement of paternity shall be assessed in accordance with the personal law of the child applicable at the time of the acknowledgement, while the acknowledgement of a child already conceived but not yet born shall be assessed in accordance with the personal law of the mother applicable at the time of the acknowledgement. The acknowledgement shall not be deemed invalid for formal reasons if it is formally valid either according to Hungarian law or the law in force at the place and date of the acknowledgement.

Section 32 If, according to the law applicable pursuant to section 31, the paternity status is unfilled, the law of another state connected closely with the case shall apply if it is more favourable for the child in that respect.

19 Adoption

Section 33 (1) Adoption shall only be valid if its conditions are met in accordance with the personal law of the adoptive parent and the person to be adopted at the time of adoption.

(2) The personal law of the adoptive parent as at the time of adoption or its termination shall apply to the legal effects of adoption and to the termination of adoption and its legal effects.

(3) If the adoptive parents are spouses,

a) the law of the state of the common nationality of the spouses at the time of adoption or its termination, or in the absence of such,

b) the law of the state in the territory of which the spouses had their shared habitual residence at the time of adoption or its termination, or in the absence of such,

c) the law of the state of the proceeding court

shall apply to the legal effects of adoption, the termination of adoption and its legal effects.

20 Legal relationship between parent and child, guardianship

Section 34 (1) The legal relationship between parent and child and the guardianship, with the exception of the matter of becoming of full legal age and names, shall be governed by the law of the state of the proceeding court.

(2) The proceeding court may exceptionally apply or take into account the law of another state with which the case is connected closely if it is justified by the interest of the child.

CHAPTER IV

COHABITANTS, REGISTERED PARTNERS

21 Cohabitants

Section 35 (1) The establishment, termination and legal effects of cohabitation shall be governed by the law of the state of the cohabitants' common nationality.

(2) If the cohabitants have different nationalities, the law of the state shall apply in the territory of which the cohabitants have their habitual residence or, in the absence of such, where they had their last shared habitual residence.

(3) If the shared habitual residence of the cohabitants cannot be established, the law of the state of the proceeding court shall apply.

(4) The provisions of section 24 shall apply accordingly to the common nationality of cohabitants.

Section 36 The cohabitants may choose the law to govern their property relations. Section 28 shall apply accordingly to the choice of law of cohabitants.

22 Registered partners

Section 37 (1) With the exceptions specified in this section, the provisions of sections 26 to 29 shall apply accordingly to the establishment and validity of registered partnership and its legal effects, with the exception of names.

(2) The establishment of registered partnership shall not be prevented and its validity shall not be affected if the personal law of the prospective registered partner does not recognise the legal institution of same-sex registered partnership, provided that:

a) the prospective registered partner of other than Hungarian nationality proves that there would be no obstacle to his marriage under his personal law, and

b) at least one of the prospective registered partners is a Hungarian national or has his habitual residence in Hungary.

(3) In the cases specified in paragraph (2), the Hungarian law shall apply to the legal effects of registered partnerships.

(4) The provisions of section 24 shall apply accordingly to the common nationality of registered partners.

Section 38 (1) The law of the state shall apply to the termination of registered partnership

a) in the territory of which the registered partners have their habitual residence at the time when the action or request for the termination of the registered partnership is brought, or in the absence of such

b) in the territory of which the registered partners had their last habitual residence, if it did not end more than one year before the action or request for the termination of the registered partnership was brought, provided that one of the registered partners still resides in that state at the time when the action or request is brought, or in the absence of such

c) of which both registered partners were nationals at the time when the action or request was brought.

(2) Where the applicable law cannot be determined in accordance with paragraph (1), and in the cases specified in section 37 (2), the proceeding court shall apply the law of its own state.

CHAPTER V

RIGHTS IN REM

23 General rules

Section 39 (1) Unless provided otherwise in this Act, ownership and other in-rem rights, including lien and possession shall be governed by the law of the place where the thing is located.

(2) The law of the place where the thing is located shall be the law of the state, in the territory of which the thing is located at the time when the fact giving rise to the in-rem effect emerges.

(3) If the thing is a component or accessory of another thing, the law of the place where the primary thing is located shall be applicable; the law which is most closely connected with it shall apply to any other material relation between things or aggregations of things.

Section 40 The applicable law shall determine, in particular,

a) the legal characteristics of the thing,

b) the content of the in-rem right,

c) the ranking of securities encumbering the thing,

d) the beneficiary of the in-rem right,

e) the establishment, existence and termination of the in-rem right, and

f) the effect of the in-rem right towards third parties.

Section 41 (1) If, following a change in the law relating to the in-rem right, a movable property is transferred permanently to the territory of another state, the previously acquired rights can be recognised in accordance with the law of the new location of the thing.

(2) If the legal effect of acquiring the in-rem right did not arise at the place where the thing was located previously, and the movable property is transferred permanently to another state, the acquisition of the right shall be governed by the law of the latter state.

(3) The acquisitive prescription of a movable property shall be governed by the law of the state in the territory of which the thing was located at the time of the expiry of the prescription period.

(4) Acquisitive prescription shall not be interrupted by a change in the location of the thing.

24 Special rules

Section 42 (1) In-rem rights relating to registered vessels or aircraft shall be governed by the law of the state, under the flag or insignia of which the vehicle travels.

(2) In-rem rights relating to railway vehicles shall be governed by the law of the state where the vehicle was put into service.

Section 43 (1) In-rem rights relating to movable property in transit shall be governed by the law of the state of destination. The sale, putting into storage or pledging of movable property in transit without the intention of the owner or the party entitled to avail of it shall be governed by the law of the state where the thing was located at the time the measure was taken.

(2) In-rem rights relating to objects of personal use carried by the passenger shall be governed by the personal law of the passenger.

Section 44 (1) Security rights in rem established by registration shall be governed by the law of the state where the security rights registry is kept.

(2) If registration is not required for the establishment of a security right in rem or the applicable law cannot be determined pursuant to paragraph (1), the security right in rem shall be governed by the personal law of the debtor.

(3) The legal effects of retention of title relating to movable properties transferred with the retention of title shall be governed by the law of the state where the thing is located, unless the parties choose the law of the state where the place of destination of the transferred movable property is.

(4) Securities relating to payment accounts, bank deposits and dematerialised securities shall be governed by the law of the state where the registry or account containing the security is kept or where the central depository system is located.

(5) Securities established on claims shall be governed by the law chosen by the parties or, in the absence of such, the law of the state where the security is registered, while unregistered securities shall be governed by the personal law of the debtor.

Section 45 (1) To govern in-rem effects relating to contracts for the transfer of ownership of movable properties, the parties may choose the law of the state where the thing is located or where the place of destination of the thing under the contract is.

(2) If the corporate (business) assets are transferred as a whole, the parties may choose the personal law of the legal predecessor to govern in-rem effects, with the exception of immovable properties.

(3) The choice of law should be made not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

Section 46 (1) If a thing considered to be part of the cultural assets of a state leaves the territory of that state in a manner which is unlawful under the law of that state at the time of exit, the law of that state, or the law of the state in the territory of which the given thing is located at the time of the assessment of the ownership claim, shall govern the ownership claim made by the state, subject to the choice of the state enforcing the ownership claim.

(2) If the law of the state which considers the unlawfully taken thing a part of its cultural assets does not provide protection to the possessor of the thing who is acting in good faith, the possessor acting in good faith may request the protection of the law of the state in the territory of which the thing is located at the time of the assessment of the ownership claim.

Section 47 (1) Subject to the choice of the original owner, the law of the state shall govern the ownership claim for the thing taken unlawfully from his possession, in the territory of which the thing was located at the time of its disappearance, or the law of the state in the territory of which the thing is located at the time of the assessment of the ownership claim.

(2) If the law of the state in the territory of which the thing was located at the time of its disappearance does not provide protection to the possessor who is acting in good faith, the possessor acting in good faith may request protection in accordance with the law of the state

in the territory of which the given thing is located at the time of the assessment of the ownership claim.

CHAPTER VI

INTELLECTUAL PROPERTY RIGHTS

25 Copyright and industrial property rights

Section 48 The establishment, content, termination and enforcement of copyrights shall be assessed in accordance with the law of the state in the territory of which the protection is sought.

Section 49 The establishment, content, termination and enforcement of industrial property rights shall be assessed in accordance with the law of the state in which protection was granted and the application was filed.

CHAPTER VII

LAW OF OBLIGATIONS

26 Contractual relationships

Section 50 (1) The contract shall be governed by the law chosen by the parties. If the choice of law is not explicit, it shall be clear from the terms of the contract or the circumstances of the case. By their choice, the parties may determine the applicable law to the whole or to only a part of the contract.

(2) The choice of law should be made not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

(3) Without prejudice to paragraph (2), the parties may agree to subject the contract to another law other than the law that should have been applied previously by virtue of the provisions of this section on choice of law or, in the absence of such, of the provisions of this Act. Amendments made following the conclusion of the contract to its terms which relate to the determination of applicable law shall have no effect on its validity in accordance with the law governing the formal validity of the contract.

(4) If the contract is connected with the law of one state only, the choice of law shall not prejudice the rules of that law which cannot be derogated from even by agreement.

(5) Sections 53 to 54 shall apply accordingly to the establishment and validity of the choice-of-law agreement.

Section 51 In the absence of a choice of law, the contract shall be governed by the law of the state with which, based on the substantial elements of the given legal relationship, the contract is the most closely connected.

Section 52 (1) The parties may choose the law governing their arbitration agreement.

(2) In the absence of such choice of law, the law chosen by the parties to govern the primary legal relationship shall apply to the arbitration agreement; in the absence of that, the law that would govern the primary legal relationship in the absence of choice of law shall apply.

(3) If the parties have determined the place of the arbitral procedure, the law of the state of the procedure shall govern the arbitration agreement, provided that it is connected more closely with the agreement than the law referred to in paragraph (2).

(4) The arbitration agreement shall not be deemed invalid for formal reasons if it complies with the formal requirements set out in any of the laws determined in accordance with this section or in the law of the state of the proceeding court.

Section 53 The establishment and validity of the contract or any of its terms shall be determined by the law which should apply according to this Act in the event of the validity of the contract and its terms.

Section 54 (1) A contract is valid as to form between persons who, or whose representatives, are in the same state at the time of concluding the contract, provided that the contract complies with the formal requirements of the law applicable pursuant to this Act, or with the law of the state where the contract was concluded.

(2) A contract is valid as to form between persons who, or whose representatives, are in different states at the time of concluding the contract, provided that the contract complies with the formal requirements of the applicable law pursuant to this Act, or with the law of any state where either party or their representatives are present at the time of concluding the contract, or where either party had habitual residence at the given time.

(3) A unilateral juridical act aimed at exerting a legal effect relating to an existing or proposed contract is valid as to form if it complies with the formal requirements of the law applicable to the contract pursuant to this Act, or with the formal requirements of the law that would govern the contract, provided that it complies with the formal requirements of the law of the state where the juridical act was made, or with the law of the state where the person making the juridical act has habitual residence at the time of making the juridical act.

(4) By way of derogation from paragraphs (1) to (3), the formal requirements laid down in the law of the state where the immovable property is located shall govern contracts, the subject matter of which is an in-rem-right relating to immovable property or to the lease of immovable property, provided that

a) these requirements are mandatory irrespective of the place where the contract was concluded and the law governing it, and

b) these requirements cannot be derogated from by agreement.

Section 55 (1) For the purposes of this subtitle, the habitual residence of a legal person or a legal entity without legal personality is the place where its central administration is located. The habitual residence of a natural person acting within the sphere of his business activities is the place where his primary place of business is located.

(2) For a contract concluded within the framework of the operation of a branch, commercial agency or other establishment, or if, according to the contract, the branch, commercial agency or other establishment is obliged to fulfil the contract, the state of the branch, commercial agency or other establishment shall be considered as habitual residence.

(3) The determination of habitual residence shall be based on the date of concluding the contract.

Section 56 Unless provided otherwise in this Act, the provisions on contracts shall apply accordingly to unilateral juridical acts.

27 Securities

Section 57 (1) The formal requirements and characteristics of securities, including bearer and registered securities, shall be governed by the law of the state governing the right under the security.

(2) The provisions of this Act on in-rem rights shall govern accordingly the in-rem effects exerted by availing of securities.

(3) The law of the state exercising state supervision over the manager of the securities account or, in the absence of such, the law of the state where the securities account is kept shall govern the legal effects of availing of dematerialised securities exerted separately from the right under the securities. If this gives rise to more than one governing law, the law of the state ensuring the entitled person's acquisition of right shall apply.

Section 58 (1) Obligations under securities shall be governed by the law chosen by the parties or, in the absence of such the law of the place where the securities were issued, or if that cannot be determined either, the personal law of the issuer.

(2) Membership rights under securities shall be governed by the personal law of the issuer.

(3) In-rem rights under securities shall be governed by the law of the state where the securities were issued.

(4) If there are several rights under a security then, in the absence of a choice of law, the law governing the right incorporated as the central element of the security shall apply.

28 Non-contractual obligations

Section 59 A person seeking compensation for damage may choose the law of the state in which the event giving rise to the damage occurred, as specified in the second part of Article 7 of Regulation (EC) No 864/2007 of the European Parliament and of the Council, not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

Section 60 Non-contractual obligations shall be governed by the law of the state in the territory of which the effect of the legal fact giving rise to the obligation emerged.

Section 61 If the habitual residence or, for legal persons, the seat indicated in the instrument of incorporation of the beneficiary and the obligor of a non-contractual obligation is in the same state where the effect of the legal fact giving rise to the obligation emerged, the law of that state shall apply.

Section 62 If a non-contractual obligation is connected closely with another legal relationship existing already between the parties at the time when the non-contractual obligation occurred, the law governing that legal relationship shall also govern the non-contractual obligation.

Section 63 (1) After the non-contractual obligation has been established, the parties may agree to submit it to the law of their choice. If the choice of law is not explicit then it shall be clearly evident from the circumstances of the case.

(2) The choice of law should be made not later than in the preparatory stage of the civil procedure and within the time limit set by the court.

(3) If the legal relationship is connected with the law of one state only, the choice of law shall not prejudice the rules of that law which cannot be derogated from by agreement.

CHAPTER VIII

LAW OF SUCCESSION

29 Oral will, succession of the state

Section 64 The oral will and its revocation shall be valid as to form if made in accordance with:

- a)* Hungarian law,
- b)* the law in force at the place and time of making or revoking the will,
- c)* the law which was the personal law of the testator at the time of making or revoking the oral will, or at the time of the testator's death,
- d)* the law in force at the testator's domicile or habitual residence at the time of making or revoking the oral will, or at the time of the testator's death, or
- e)* the law applicable at the place where the immovable property is located, if the oral will relates to immovable property.

Section 65 If, according to the law that governs the succession, there is no successor to an estate located in Hungary, the provisions of Hungarian law on the succession of the Hungarian State shall govern the succession of that estate.

CHAPTER IX

PROCEDURAL RULES

30 General rules

Section 66 Unless provided otherwise in this Act, the proceedings of Hungarian courts shall be governed by Hungarian law.

Section 67 (1) The legal effects of insolvency procedures initiated at Hungarian courts shall be governed by Hungarian law.

(2) The law of the state where the immovable property is located or where the registry is kept shall govern the effects exerted by insolvency procedures on the debtor's rights relating to immovable property, vessels or aircraft and securities that require registration in the public register, and on contracts for acquiring or alienating such rights for consideration.

Section 68 (1) The capacity to be a party or the procedural capacity to act shall be governed by the personal law of the party.

(2) Anyone who has no capacity to act or has limited capacity to act according to his personal law but would have capacity to act according to Hungarian law shall be considered, in Hungarian court procedures, as a person having procedural capacity to act.

(3) Paragraph (2) shall not prevent the statutory representative authorised under the personal law of a person having no capacity to act or having limited capacity to act under his personal law to act on behalf of that person.

(4) For legal persons or legal entities without legal personality that were registered abroad, the legal capacity to appear before court shall be presumed, until proven to the contrary.

Section 69 (1) If, at the time of the commencement of the procedure, a procedure launched previously is in progress before a foreign court, concerning the same right arising from the same factual basis, the Hungarian court may, either *ex officio* or upon request, suspend the procedure, provided that the recognition of the foreign court's decision is not excluded in Hungary.

(2) The Hungarian court shall continue the procedure if it was terminated by the foreign court without rendering a decision on the merits. The Hungarian court may continue the procedure if the foreign procedure was suspended, or if it considers that the foreign procedure is not likely to be completed within a reasonable time. If an event giving rise to the continuation of the procedure occurs, the parties shall notify of it the court without delay. The court may review as to whether suspension is justified at any time and, for such purposes, and by setting a deadline, instruct the parties to provide a statement on their procedural actions taken before the foreign court.

(3) Paragraphs (1) to (2) shall also apply to the applications submitted to a Hungarian court relating to an application submitted to a foreign court.

(4) The Hungarian court shall terminate the procedure if the foreign court rendered a decision on the merits of the case and the decision can be recognised in Hungary.

(5) For the purposes of this Act, the procedure shall be deemed to commence

a) at the time when the document instituting the procedure is submitted to the court, provided that the plaintiff does not fail afterwards to carry out the actions set forth in order to facilitate the service of documents to the defendant, or

b) if the document shall be served prior to its submission to the court, at the time when it is received by the authority having the competence to serve the document, provided that the plaintiff does not fail afterwards to perform the action set forth to facilitate the submission of the document to the court.

Section 70 (1) If the Hungarian court does not have jurisdiction concerning the merits of the case, it may still adopt a temporary measure, including a protective measure under Hungarian law with respect to a person or property located in Hungary. A temporary measure affecting property may be adopted with the condition that the decision concerning the merits of the case which was rendered by the foreign court having jurisdiction can be recognised in Hungary.

(2) The temporary measure shall be ordered by the court which has territorial jurisdiction based on the habitual residence of the person concerned, or based on the location of the property concerned.

(3) If Hungarian law requires the commencement of the procedure concerning the merits of the case in order to maintain the temporary measure in effect, for this purpose, the procedure before the foreign court having jurisdiction concerning the merits of the case shall be taken into account.

(4) If the foreign court having jurisdiction renders a decision concerning the subject matter of the measure adopted pursuant to paragraph (1), and that decision may be recognised in Hungary, the interim measure shall become ineffective.

Section 71 The Minister issues a certificate on the Hungarian law and on its application in practice.

31 General rules of international legal assistance

Section 72 (1) At the request of a foreign court, a Hungarian court shall provide legal assistance on the basis of an international treaty, a directly applicable legal act of the European Union with general application or by reciprocity.

(2) In the absence of reciprocity, the request for legal assistance may be fulfilled with the consent of the Minister and the minister responsible for foreign affairs; furthermore, if required, with the consent of the minister having competence with respect to the subject matter of the case.

(3) Legal assistance shall be refused if it would be contrary to Hungarian public policy.

32 Service of documents

Section 73 (1) A document to be served abroad through the authority of the requested state shall be sent for further action to the Minister.

(2) If the service of the document by post is made possible by an international treaty, the court may also send the document directly to the addressee.

(3) If the requirements laid down in the international treaty are met, the document may also be served through the foreign representative authority of Hungary competent at the addressee's place of residence. In such cases, the document shall be sent for further action to the minister responsible for foreign affairs.

(4) Service performed abroad shall be deemed valid if it complies with the provisions of Hungarian law or the law applicable at the place of delivery. If the service was performed pursuant to paragraph (2), the presumption of service shall not apply.

Section 74 (1) Requests for legal assistance aimed at the service of documents in Hungary which were produced in foreign procedures shall be forwarded by the Minister, as specified in the request, to the court referred to in paragraph (2), or, through the Hungarian Chamber of Court Bailiffs, to the independent court bailiff (hereinafter "bailiff").

(2) The service of document to the addressee shall be performed either by the district court having territorial jurisdiction based on the address of the addressee indicated in the request for legal assistance (in Budapest the Pest Central District Court), or by the bailiff.

(3) The court or the bailiff shall arrange for the service of documents within eight days from receiving the request for legal assistance.

Section 75 (1) In the course of the service of documents produced in foreign procedures, the Hungarian laws on the service of official documents shall apply, subject to the derogations specified in paragraphs (2) to (5).

(2) If a certified Hungarian translation or a translation deemed suitable for court procedures by the law of the requesting state is not attached to the documents to be served, it may only be served if it is voluntarily accepted by the addressee. Receipt of such document by the addressee shall not be considered as final acceptance; the addressee, within fifteen days from the receipt of the document and by stating that he does not accept it, may refuse its acceptance and return the document personally or by way of postal delivery to the local court or bailiff satisfying the request for legal assistance concerning the service.

(3) If a document to which the translation specified in paragraph (2) is not attached cannot be delivered because the addressee did not accept it (it was returned to the court with the remark “not claimed”), the presumption of the service of documents laid down in section 137 (2) of Act CXXX of 2016 on the Code of Civil Procedure (hereinafter “Pp.”) shall apply.

(4) If the addressee fails to accept the document as described in paragraph (2), or the document was not served for a reason indicated in paragraph (3), the court or the bailiff satisfying the request for legal assistance concerning the service shall determine, as the result of the service, that it cannot be deemed served on the basis of Hungarian law.

(5) In the course of service, at the request of the requesting foreign court, foreign procedural rules shall apply, if they do not violate Hungarian public policy.

Section 76 (1) The court or bailiff performing the request for legal assistance concerning the service shall notify the Minister of the service taking place and the date thereof, or the obstacles to the service and its reasons within eight days.

(2) If the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, promulgated in Act XXXVI of 2005, applies to the service, the Minister shall, based on the data received from the court or the bailiff, issue the certificate referred to in Article 6 of the Convention.

Section 77 (1) The tasks of the transmitting agency referred to in Article 2(1) of Regulation (EC) No 1393/2007 of the European Parliament and of the Council (hereinafter in this section “the Regulation”) shall be performed by

a) with respect to court documents, the court in the procedure of which the document to be served was produced,

b) with respect to documents produced in notarial procedures, the notary in whose proceedings the document was produced,

c) with respect to other extrajudicial documents, the Minister.

(2) The tasks of the receiving agency referred to in Article 2(2) of the Regulation shall be performed by

a) the district court having territorial jurisdiction based on the address of the addressee indicated in the request for legal assistance (in Budapest the Pest Central District Court), and

b) the Hungarian Chamber of Court Bailiffs,

with the proviso that in the event referred to in point *b)*, the service shall be performed by the bailiff having competence based on the addressee’s address.

(3) Section 74 (3) shall apply accordingly in the course of the satisfaction of requests for legal assistance submitted on the basis of the Regulation.

(4) The tasks of the central body specified in Article 3 of the Regulation shall be performed by the Minister.

(5) Pursuant to Article 4(2) of the Regulation, the documents to be served are accepted by the receiving institution by means of post or fax, or electronically. Standard forms introduced

by the Regulation are accepted by the transmitting or receiving institution in Hungarian, English, German or French.

(6) If the result of the service of documents was established on the basis of the presumption of service referred to in section 137 (2) of the Pp., the receiving institution shall inform the transmitting institution that the service and the date thereof were determined on the basis of the presumption of service, and that the addressee may object to it based on section 138 of the Pp. If the court accepts the addressee's objection afterwards, it shall simultaneously notify the foreign transmitting institution of the fact that, according to Hungarian law, the legal consequences of service are ineffective.

(7) The receiving institution shall inform the transmitting institution of the service taking place, its date, its obstacles and the underlying reasons within eight days.

(8) The method of service referred to in Article 13 of the Regulation may only be applied in Hungary if the addressee is a national of the transmitting Member State.

(9) In the event of applying the method of service referred to in Article 13 of the Regulation, the document to be served abroad shall be transmitted in compliance with section 73 (3).

(10) The method of service referred to in Article 15 of the Regulation may be applied in Hungary in accordance with the laws on the service of documents by bailiffs.

33 Taking of evidence

Section 78 (1) Requests for legal assistance concerning taking evidence to be submitted to a foreign court shall be sent to the Minister.

(2) If, pursuant to an international treaty, the evidence may also be taken by a diplomatic or consular representative then, for the purposes of taking evidence, the court may request the competent foreign representation authority of Hungary through the Minister responsible for foreign affairs.

(3) In cases specified in an international treaty, a Hungarian court, for the purposes of its ongoing procedure, may directly carry out the taking of evidence abroad. In such cases, the general rules for taking evidence shall apply, with the proviso that coercive means shall not be used.

(4) In the absence of an international treaty or reciprocity, the court may set a time limit for the party at his request to present, in connection with the taking of evidence, a public deed complying with the law of the foreign state and, if necessary, provided with legalisation.

(5) Assessing the compliance of taking evidence abroad shall be done in accordance with the law of the place where the taking of evidence is carried out; however, it shall also be deemed lawful if it is in compliance with Hungarian law.

Section 79 (1) The Minister shall forward to the court specified in paragraph (3) the request received from a foreign court concerning legal assistance in taking evidence in Hungary, with the exception specified in paragraph (2).

(2) If the request for legal assistance is aimed at the disclosure of data directly available in the public register, the Minister may seek out the organ keeping the register for the disclosure of the requested data.

(3) The satisfaction of requests for legal assistance in the taking of evidence shall be performed by the district court (in Budapest the Buda Central District Court), the material and territorial jurisdiction of which covers the territory

- a) where the domicile or habitual residence of the person to be heard is located, or
- b) where the object of inspection is located, or
- c) where evidence could otherwise be taken in the most practical way, especially if the objects of inspection, the Hungarian domicile or the habitual residence of the persons to be heard are located within an area covered by the territorial jurisdiction of more than one court.

(4) The Hungarian law shall apply in the course of satisfying a request for legal assistance concerning taking evidence. Foreign procedural rules shall only be applied if requested so by the foreign court and if it does not violate Hungarian public policy.

(5) If the requesting foreign court indicated that one of its members, the parties having an interest in the foreign procedure or their representatives intend to be present the request for legal assistance is fulfilled, the court fulfilling the request for legal assistance shall set the due date for satisfying the request accordingly. The court shall inform the Minister without delay of the date and venue of taking the evidence, as well as other circumstances concerning participation.

Section 80 (1) On the basis of an international treaty, the Minister may authorise, in accordance with the provisions of this section, the person designated by the foreign court for such purposes or one of the members of the foreign court to carry out, for the purposes of the foreign procedure, the taking of evidence directly in Hungary.

(2) Requests for the authorisation referred to in paragraph (1) shall be submitted to the Minister in Hungarian, English, French or German. The following shall be indicated in the request:

- a) the name of the proceeding foreign court and the case number,
- b) the names and addresses of the parties or their representatives involved in the procedure,
- c) the subject matter of the procedure,
- d) a brief description of the factual situation,
- e) the name and contact information of the person who intends to carry out the taking of evidence in Hungary as an authorised representative or member of the court,
- f) the taking of evidence to be carried out in Hungary,
- g) the name and address of the person whose involvement is needed in order to carry out the taking of evidence.

(3) The decision on appointment rendered by the foreign court or a document having equivalent effect issued to the person authorised to carry out the taking of evidence shall be attached to the request.

(4) The Minister shall reject the request if the intended taking of evidence would violate Hungarian public policy.

(5) If the Minister accepts the request, he shall inform the district court referred to in section 79 (3), unless the taking of evidence does not require the involvement of the court.

(6) If the taking of evidence involves the hearing of a person then, prior to the hearing, the person

- a) shall be informed that
 - aa) his involvement is voluntary and that he shall not suffer any adverse legal consequence in Hungary if he refuses,
 - ab) he is entitled to use his native language in the course of the hearing, and
 - ac) his legal representative may be present in the course of the hearing; and
- b) shall be notified, in accordance with the provisions of the Pp. on the notification of witnesses, that he is to be heard as a witness.

(7) The notification referred to in paragraph (6) shall be provided by the court being involved on the basis of paragraph (5). If there is no such court, the Minister shall determine, as a condition for approval to take evidence, that the requesting court is required to ensure that the notification is made and is required to provide proof of it to the Minister.

(8) If the involvement of an interpreter is needed to carry out the hearing, the requesting court shall arrange for advancing and funding the remuneration of the interpreter.

(9) The Minister may also determine other conditions for the authorisation to take evidence in accordance with this section.

Section 81 (1) The tasks of the central body referred to in Article 3(1) and (3) of Council Regulation (EC) No 1206/2001 (in this section hereinafter “Regulation”) shall be performed by the Minister.

(2) The satisfaction of a request for legal assistance referred to in Article 1(1) *a*) of the Regulation falls within the material and territorial jurisdiction of the court specified in section 79 (3). If the receiving court establishes that the satisfaction of the request for legal assistance falls within the material or territorial jurisdiction of another court, the receiving court shall *ex officio* forward the request to that court within eight days.

(3) A request sent by the court of another Member State pursuant to Article 17(1) of the Regulation shall be received and assessed by the Minister, in the course of which the provisions of sections 80 (5) to (9) shall apply accordingly.

(4) The standard forms specified in the Regulation are accepted by the court in Hungarian, English or German and by means of post and telefax, or electronically.

(5) In addition to the methods regulated in Article 17 of the Regulation, a Hungarian court may, for the purposes of its procedure, also carry out the taking of evidence directly in a Member State of the European Union, with the exception of Denmark. In the course of such an event, the general rules for taking evidence shall apply and no coercive measures shall be used.

34 Provisions on immunity

Section 82 For the purposes of this subtitle, a reference made to a state includes:

- a*) the state,
- b*) the state organs exercising public power, when they proceed in that role, and
- c*) the persons acting on behalf of the state, when they proceed in that role.

Section 83 (1) With the exceptions specified in this Act, only Hungarian courts shall proceed in procedures against the Hungarian State.

(2) Apart from the exceptions specified in this Act, Hungarian courts shall not proceed in procedures against a foreign state.

Section 84 (1) Irrespective of the subject matter of the procedure, a state shall not have immunity

- a*) if it waived its immunity expressly,
- b*) if the procedure was initiated by the state itself, or it intervened in the procedure, or entered into the court procedure on the merits, or
- c*) with regard to a counter-claim submitted in a procedure initiated by the state, if it is based on a legal relationship which constitutes the subject matter of the legal dispute.

(2) The state shall not be entitled to immunity if the subject matter of the procedure is

- a*) a right or obligation of the state arising from a civil law contract, unless the other contracting party is a state, or the contracting parties have agreed otherwise;
- b*) a right or obligation arising from an employment contract or other employment relationship between the state and a natural person, provided that the place of employment is or was in the territory of the state where the procedure is carried out, unless the employee is a national of the foreign country where the employment takes place, or performed public functions;
- c*) a claim made against the state on the grounds of property damage or harm caused to life, physical integrity and health, provided that the harmful event or failure occurred in the territory of the state where the procedure takes place and the injured person was in that state at that time;

d) a right, interest or possession of the state related to an immovable property located in the territory of the state where the procedure takes place, or the use of that property by the state and the obligations arising from it,

e) the membership, ownership or interest of the state in any legal person or legal entity without legal personality registered or having its seat or central place of administration in the territory of the state where the procedure takes place, or any right or obligation arising from it,

f) the inheritance relationship of the state in connection with an estate opened in the state where the procedure takes place,

g) the granting, content or termination of intellectual property protection in the state of the procedure,

h) the right or interest of the state with respect to the management of property under an insolvency procedure in the state where the procedure takes place, or

i) the validity, interpretation or application of the arbitration agreement concluded by the state for the resolution of legal disputes arising from civil law contracts, the arbitral procedure conducted on the basis of such agreement and the annulment of the award rendered, unless the arbitration agreement provides otherwise.

Section 85 (1) For the purposes of this section, judicial enforcement shall also include temporary and protective measures limiting the right of disposal.

(2) The waiver of immunity referred to in section 84 (1) shall not include the waiver of immunity from judicial enforcement.

(3) Assets of a foreign state located in Hungary shall not be the subject of judicial enforcement, unless

a) the foreign state expressly consented to it,

b) the foreign state has allocated the assets to satisfy a particular claim, or

c) the assets serve purposes other than non-commercial government activities.

(4) For the purposes of paragraph (3) *c)*, non-commercial government activities are served especially by

a) assets serving the operation of the foreign representations of the state,

b) assets serving military purposes,

c) assets of the central bank or other financial authority,

d) assets forming a part of the cultural heritage and archives of the state, which are not to be alienated,

e) assets constituting part of a scientific, cultural or historic exhibition, which are not to be alienated.

Section 86 (1) Only Hungarian courts shall proceed in procedures initiated against Hungarian nationals who are diplomatic representatives abroad, or in procedures initiated against Hungarian nationals who otherwise have jurisdictional immunity, unless the Hungarian State or the international organisation employing the person has expressly waived the right to immunity.

(2) Hungarian courts shall not proceed in procedures initiated against foreign nationals who are diplomatic representatives in Hungary, or in procedures initiated against foreign nationals otherwise having jurisdictional immunity, unless the foreign state or the international organisation employing the person has expressly waived the right to immunity.

Section 87 (1) Service of documents to a foreign state shall be governed by a directly applicable legal act of the European Union with general application or an international treaty which regulates legal assistance in the service of documents with respect to that particular state; in the absence of such, the documents shall be served by the minister responsible for foreign affairs.

(2) Documents shall not be served directly to foreign states by post.

(3) Documents shall be served by the minister responsible for foreign affairs to international organisations or natural persons having immunity.

CHAPTER X

JURISDICTION

35 General rules

Section 88 Irrespective of other provisions of this Act on jurisdiction, only Hungarian courts shall proceed

a) in procedures, the subject matter of which is an in-rem right established on immovable property located in Hungary, or the lease or usufructuary lease of such property,

b) in probate procedures concerning the estate of a Hungarian national in Hungary,

c) in procedures for the destruction of deed issued in Hungary,

d) in procedures concerning the registration of rights, facts and data in the public registers kept in Hungary,

e) in procedures concerning enforcement in Hungary.

Section 89 Irrespective of other provisions of this Act on jurisdiction, Hungarian courts shall have no jurisdiction

a) in procedures, the subject matter of which is an in-rem right established on immovable property located abroad, or the lease or usufructuary lease of such property,

b) in probate procedures concerning the estate of a non-Hungarian national in Hungary,

c) in procedures for the destruction of deed or securities issued abroad,

d) in procedures concerning the granting, scope and termination of industrial property rights abroad,

e) in procedures concerning the formation and termination of legal persons or legal entities without legal personality registered abroad (for the purpose of this section hereinafter jointly “legal entity”), in procedures concerning the validity of the contract or instrument of incorporation on the basis of which the legal entity is registered, and in procedures concerning the review of resolutions adopted by of the organs of the legal entity,

f) in procedures concerning the registration of rights, facts and data into the public register kept abroad,

g) in actions concerning foreign enforcement.

Section 90 (1) If more than one defendants are sued simultaneously, the Hungarian court may have jurisdiction over all defendants if at least one of the defendants is domiciled in Hungary, or, for legal persons or legal entities without legal personality, has its seat or central place of administration (for the purposes of this chapter hereinafter jointly “seat”) in Hungary, provided that there is a close relationship between the actions based on which it is practical to assess and decide on them jointly in order to avoid contradictory decisions rendered in separate procedures.

(2) If the primary and secondary obligors are sued simultaneously, Hungarian courts shall have jurisdiction regardless of the domicile or the seat of the secondary obligor, provided that the domicile or seat of the primary obligor is in Hungary.

(3) If a Hungarian court has jurisdiction to decide on a claim, it shall also have jurisdiction in respect of the counter-claim.

Section 91 With the exceptions specified in this Act, the jurisdiction of Hungarian courts shall also be established if the defendant submits a counter-claim without objecting to the lack of jurisdiction (entry into the court procedure).

36 Proprietary matters

Section 92 Hungarian courts shall proceed in all proprietary matters if the defendant's domicile or seat is in Hungary.

Section 93 Hungarian courts shall also have jurisdiction in contract disputes if the place of performance of the disputed obligation is in Hungary. For the purposes of this section, the place of performance of the disputed obligation is

a) the place that the parties agreed upon in the contract as the place of performance, otherwise

b) with regard to the sale of a movable property, the place where the given thing was delivered or should have been delivered pursuant to the contract,

c) with regard to the provision of services, the place where the service was or should have been provided pursuant to the contract, or

d) with regard to other contracts, the place determined by Hungarian law as the place of performance of the disputed claim.

Section 94 (1) Hungarian courts may also proceed in legal disputes concerning non-contractual obligations if the legal fact giving rise to the obligation or its effect occurred or could occur in Hungary. This provision shall apply accordingly to claims arising from violation of rights relating to personality.

(2) Hungarian courts may proceed in matters of compensation for damage caused by criminal offences and of civil law claims enforced in criminal procedures, if the criminal offense giving rise to the procedure falls within the scope of Hungarian criminal jurisdiction.

(3) Hungarian courts may also proceed in actions brought for establishing or raising the amount of compensation paid in annuities, if the domicile of the person entitled to compensation is in Hungary.

Section 95 Hungarian courts may proceed in procedures, the subject matter of which is an in-rem right established on a movable property located in Hungary at the time of the commencement of the procedure.

Section 96 Hungarian courts may proceed in procedures initiated against an undertaking having its seat abroad, if the undertaking has a branch or representation in Hungary and the legal dispute is related to their operations, including also if the contract on behalf of the undertaking having its seat abroad was concluded in Hungary.

Section 97 Hungarian courts may also proceed in property actions against a defendant having no domicile or seat in Hungary, provided that the defendant has enforceable assets in Hungary. A due claim of the defendant shall be deemed part of the defendant's assets in Hungary, if the domicile of the debtor is in Hungary, or if the claim is secured by a thing located in Hungary.

Section 98 (1) Hungarian courts may also act in inheritance procedures if the deceased was a Hungarian national at the time of his death.

(2) A Hungarian notary may proceed in probate procedures if the deceased was a Hungarian national at the time of his death or the estate is located in Hungary.

Section 99 (1) In proprietary matters and with respect to their existing or future legal disputes arising from a specified legal relationship, the parties may determine, with a choice-of-court agreement, the jurisdiction of the courts or one or more specified court of a state.

(2) A choice-of-court agreement

a) in which the parties determine the jurisdiction of a foreign court for a case in which Hungarian courts have exclusive jurisdiction, or

b) in which the parties determine the jurisdiction of a Hungarian court for a case in which the jurisdiction of Hungarian courts is excluded

shall be null and void.

(3) The parties may enter into a choice-of-court agreement

- a)* in writing,
- b)* orally, if confirmed in writing,
- c)* in a form which is in accordance with previously established practices between the parties, or
- d)* in international commerce, in a form that is in accordance with the trade usage with which the parties are or should have been familiar and which is generally known and regularly taken into account in the given business sector by parties concluding these types of contracts.

(4) A choice-of-court agreement shall also be deemed concluded in writing if it was concluded by way of exchange of messages through a device durably archiving the juridical act of the parties.

(5) With respect to issues not regulated in this Act, the validity and existence of the choice-of-court agreement shall be governed by the law of the state of the court or courts determined to have jurisdiction on the basis of the choice-of-court agreement.

(6) If the parties concluded the choice-of-court agreement as part of another contract then, with respect to its validity and existence, the choice-of-court agreement shall be deemed an agreement independent from the other terms of the contract.

(7) Unless agreed otherwise by the parties, the choice-of-court agreement shall be exclusive. However, if the parties determined the jurisdiction of a foreign court and this court establishes its lack of jurisdiction, a Hungarian court may establish its own jurisdiction in accordance with the general rules.

Section 100 (1) Hungarian courts shall have jurisdiction to proceed in insolvency procedures if the legal person debtor has its seat indicated in its instrument of incorporation in Hungary, or has a site of operation (branch or other establishment) in Hungary, where it conducts activities of a non-permanent nature.

(2) If a Hungarian court has jurisdiction to proceed in insolvency procedures, it may also proceed in claims arising from and closely connected with the insolvency procedure.

(3) Sections 91 and 99 shall not apply to insolvency procedures.

37 Matters of family law and status of persons

Section 101 (1) In the case specified in Article 7 of Council Regulation (EC) No 2201/2003 Hungarian courts shall have jurisdiction in matrimonial matters if one of the spouses is a Hungarian national.

(2) Hungarian courts shall have jurisdiction in procedures for the declaration of the existence or non-existence of marriage if one of the spouses is a Hungarian national or the defendant's habitual residence is in Hungary.

Section 102 (1) Hungarian courts shall have jurisdiction in procedures concerning the personal and property relations between spouses if

- a)* the habitual residence of the defendant spouse is in Hungary,
- b)* the last shared habitual residence of the spouses was in Hungary, provided that one of them still has habitual residence in Hungary at the time when the procedure is instituted, or
- c)* both spouses are Hungarian nationals.

(2) Hungarian courts shall also have jurisdiction in procedures concerning matrimonial property relations if the asset forming the subject matter of the procedure is in Hungary.

(3) A Hungarian court may also proceed if the legal relationship specified in paragraph (1) is assessed in procedures concerning the marital relationship, provided that it has jurisdiction for such procedures.

(4) If a Hungarian court has jurisdiction in procedures concerning an inheritance relationship, its jurisdiction shall also extend to the assessment of matrimonial property matters relating to the inheritance.

Section 103 Hungarian courts shall have jurisdiction in procedures concerning the existence, validity, termination and legal effects of a registered partnership if

- a) the registered partnership was established in Hungary or
- b) at least one of the registered partners is a Hungarian national.

Section 104 (1) Hungarian courts shall have jurisdiction in procedure concerning the establishment of a parent-child relationship by descent if

- a) the child is a Hungarian national,
- b) the child's habitual residence is in Hungary, or
- c) the habitual residence of the defendant or, if more than one person is required to be party to the action, at least one of the defendants is in Hungary.

(2) Section 91 shall not apply to matters concerning the establishment of parent-child relationship by descent.

Section 105 (1) Hungarian courts shall have jurisdiction in procedures concerning the approval or termination of adoption if

- a) the child to be adopted or the already adopted child is a Hungarian national or has his habitual residence in Hungary, or
- b) the adoptive parent or, in the event of adoption by spouses, at least one of the spouses is a Hungarian national or has his habitual residence in Hungary.

(2) Section 91 shall not apply to matters concerning adoption.

Section 106 (1) In the case referred to in Article 14 of Council Regulation (EC) No 2201/2003, Hungarian courts shall have jurisdiction in procedures concerning parental custody, contact rights and guardianship if the child is a Hungarian national.

(2) Section 91 shall not apply to matters concerning parental custody, contact rights and guardianship.

Section 107 (1) Hungarian courts shall have jurisdiction in procedures concerning guardianship if the person to be placed or is already placed under guardianship is a Hungarian national or has his habitual residence in Hungary.

(2) Paragraph (1) shall apply accordingly to procedures concerning other protective measures.

(3) Section 91 shall not apply to matters concerning guardianship and other protective measures.

Section 108 (1) Hungarian courts shall have jurisdiction in procedures concerning the declaration of presumed death or the establishment of the fact of death if

- a) the missing person's last known habitual residence was in Hungary, or
- b) the missing person was a Hungarian national and the declaration of his presumed death or the establishment of the fact of his death became necessary by a domestic legal interest, in particular the missing person's marriage or registered partnership with a spouse or registered partner of Hungarian nationality or with domicile in Hungary, or the missing person's property located in Hungary.

(2) Section 91 shall not apply to matters concerning the declaration of presumed death or the establishment of the fact of death.

CHAPTER XI

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

38 General rules

Section 109 (1) A decision of a foreign court shall be recognised if

a) the jurisdiction of the proceeding foreign court is well-founded in accordance with this Act,

b) the decision became final or has equivalent effect based on the law of the state where it was rendered, and

c) none of the reasons for refusal specified in paragraph (4) is met.

(2) Unless provided otherwise in this Act, the jurisdiction of the proceeding foreign court shall be deemed well-founded for the purposes of paragraph (1) *a)* if it proceeded on the basis of grounds for jurisdiction which, pursuant to this Act, would constitute grounds for jurisdiction for Hungarian courts.

(3) In connection with the recognition of decisions rendered in matters of family law and status of persons, the other nationalities of the Hungarian national shall also be taken into account in the course of assessing the grounds for jurisdiction based on which the foreign court proceeded.

(4) A foreign decision shall not be recognised if

a) its recognition would violate Hungarian public policy,

b) against whom the decision was rendered did not attend the procedure either in person or by way of an authorised representative because the summons, statement of claim, or other document instituting the procedure was not served at his domicile or habitual residence in a time and manner allowing for adequate preparation of defence,

c) a procedure for the same right arising from the same factual basis between the same parties was initiated at a Hungarian court before the initiation of the foreign procedure,

d) a Hungarian court has already rendered a final decision on the merits concerning the same right arising from the same factual basis between the same parties, or

e) a court of a foreign state other than the one rendering the decision has already passed a final decision on the merits concerning the same right arising from the same factual basis between the same parties, and the decision satisfies the requirements for recognition in Hungary.

Section 110 Settlement agreements made in the procedure of a foreign court or authority shall be recognised and enforced in Hungary in accordance with the requirements pertaining to decisions.

Section 111 If a foreign decision does not meet the requirements laid down in the international treaty signed by Hungary concerning the recognition and enforcement of foreign decisions, applicable pursuant to section 2, it may still be recognised and enforced if it complies with the requirements set forth in this Act. With respect to the application of this provision, reciprocity with respect to the given state shall be deemed to exist.

Section 112 The general rules of recognition shall apply to the recognition of foreign decisions rendered in connection with legal relationships regulated under subtitles 39-40, subject to the derogations included in subtitles 39-40.

39 Decisions rendered in proprietary matters

Section 113 (1) Reciprocity between Hungary and the state of the court rendering the judgment shall be another requirement of the recognition of decisions rendered in proprietary matters.

(2) A decision may be recognised without reciprocity if

a) the jurisdiction of Hungarian courts was excluded in the case, or

b) the jurisdiction of the proceeding foreign court is based on an agreement between the parties which is in compliance with the provisions of Hungarian law.

Section 114 (1) Reciprocity between Hungary and the state of the court rendering the decision is a further requirement of the recognition of decisions rendered in insolvency procedures.

(2) The recognition of a main foreign insolvency procedure shall not exclude the initiation of secondary insolvency procedure at a Hungarian court.

(3) A decision initiating a main foreign insolvency procedure shall only have legal effects in accordance with the law of the state where the procedure is initiated if no secondary insolvency procedure has been initiated in Hungary.

(4) The law may set further requirements and establish special procedural rules for the recognition of certain legal effects related to main foreign insolvency procedure.

Section 115 The jurisdiction of foreign courts in inheritance procedures shall be deemed well-founded if

- a)* it was based on the habitual residence of the deceased at the time of his death, or
- b)* it was based on the testator's nationality.

40 Decisions rendered in matters of family law and status of persons

Section 116 (1) The jurisdiction of the proceeding foreign court in procedures concerning the existence, validity or dissolution of marriage shall be deemed well-founded if it is based on

- a)* the previous habitual residence of the defendant spouse,
- b)* the last shared habitual residence of the spouses, or
- c)* the common nationality of the spouses.

(2) The final decision of a foreign court on the existence, validity or dissolution of marriage or its decision having equivalent legal effect according to the law of the state of the court shall also be recognised if the jurisdiction of the foreign court is not well-founded in accordance with this Act, provided that the recognition is requested by the spouse of Hungarian nationality and none of the reasons for refusal specified in section 109 (4) exist.

(3) Notwithstanding section 109 (4) *c)* to *e)*, refusal of the recognition of decisions referred to in paragraph (1) or relating to the personal relationship between the spouses shall be allowed if

- a)* procedures for the same right arising from the same factual basis were instituted at a Hungarian court before the commencement of the foreign procedure,
- b)* a Hungarian court has already rendered a final and binding decision on the merits concerning the same right arising from the same factual basis, or
- c)* a court of a foreign state other than the one of the court rendering the decision has already rendered a final and binding decision on the merits concerning the same right arising from the same factual basis, and this decision satisfies the requirements for recognition in Hungary.

Section 117 (1) In procedures concerning the existence, validity and termination of registered partnerships, the jurisdiction of the proceeding foreign court shall be deemed well founded if it is based on

- a)* the habitual residence of the defendant registered partner,
- b)* the last shared habitual residence of the registered partners,
- c)* the common nationality of the registered partners,
- d)* the place where the registered partnership was established.

(2) Section 116 (2) to (3) shall apply accordingly to decisions concerning the existence, validity and termination of registered partnerships.

Section 118 In procedures concerning parental custody, contact rights and guardianship, the jurisdiction of the proceeding foreign court shall be deemed well-founded if

- a)* it is based on the habitual residence of the child, or
- b)* the decision was rendered by the court that proceeded in connection with the marriage of the child's parents, provided that the jurisdiction of the court in the procedure concerning the marriage was well-founded in accordance with section 101.

Section 119 In procedures concerning maintenance arising from family law relationships and registered partnerships, the jurisdiction of the proceeding foreign court shall be deemed well-founded if

- a)* it is based on the habitual residence of the defendant,
- b)* it is based on the habitual residence of the maintenance creditor, or
- c)* the decision was rendered by the court proceeding in the matters of personal status, parental custody or guardianship, provided that the jurisdiction in the procedure concerning personal status was well-founded in accordance with sections 101 and 103, or in the procedure concerning parental custody or guardianship it was well-founded in accordance with section 106 and the claim for maintenance was an ancillary claim.

Section 120 (1) Apart from the requirements specified in section 109, a decision rendered in procedures concerning the adoption of a child of Hungarian nationality shall only be recognised if the adoption was approved by the Hungarian guardianship authority. The approval of the Hungarian guardianship authority shall not be needed if the child has multiple nationalities and one of the nationalities is Hungarian, and the child's habitual residence was in the state of the other nationality at the time when the decision was rendered, provided that the adoption has already been approved by a court in the state of the other nationality.

(2) Notwithstanding paragraph (1) and even if the Hungarian guardianship authority did not approve the adoption or the jurisdiction of the foreign court is not well-founded in accordance with the provisions of this Act, a final decision of a foreign court or its decision having equivalent legal effect according to the law of the state of the court shall also be recognised if requested by so an adopted Hungarian national who became of legal age in accordance with Hungarian law and none of those reasons for refusal specified in section 109 (4) is present.

Section 121 Instead of section 109 (4) *c)* to *e)*, the recognition of decisions on

- a)* the establishment of a parent-child relationship by descent,
- b)* adoption,
- c)* parental custody, contact rights and guardianship,
- d)* legal custodianship and other protective measures,
- e)* the declaration of presumed death and the establishment of the fact of death, and
- f)* names

shall be refused in those cases specified in section 116 (3) *a)* to *c)*.

41 Procedural provisions

Section 122 (1) No separate procedure shall be required for the recognition of a foreign decision. Unless otherwise provided by law, the matter of recognisability shall be assessed by the court in the procedure of which it arose.

(2) The party concerned may also request in a separate procedure the recognition of a foreign decision in Hungary. The court shall decide on such a request in a non-contentious procedure.

(3) The procedure shall be under the material jurisdiction and exclusive territorial jurisdiction of

- a)* the district court attached to the regional court, in the territory of which the domicile (seat) or, in the absence of such, the habitual residence of the opposing party is located (in Budapest the Central District Court of Buda) or, with respect to foreign arbitral awards, the regional court (in Budapest the Budapest-Capital Regional Court), or, failing that,

b) the district court attached to the regional court, in the territory of which the domicile (seat) or, in the absence of such, the habitual residence of the requesting party is located (in Budapest the Central District Court of Buda) or, with respect to foreign arbitral awards, the regional court (in Budapest the Budapest-Capital Regional Court), or

c) the Central District Court of Buda or, with respect to foreign arbitral awards the Budapest-Capital Regional Court, if the requesting party has no domicile (seat) or habitual residence in Hungary either.

(4) The procedures, including the available legal remedies, shall be governed by the provisions of the act on judicial enforcement on the issue of the certificate of enforcement.

(5) Foreign decisions shall not be the subject of review as to their substance. The requirements for the recognition of a decision in Hungary, set forth under section 109(1) *a)* to *b)*, section 113 (1), section 114 (1) and section 120 (1), as well as the lack of reasons for refusal laid down in section 109 (4) *a)* shall be assessed *ex officio*, and the lack of reasons for refusal laid down in section 109 (4) *b)* to *e)* shall be assumed until proven otherwise.

(6) If the requirements of recognition are met, the court shall, at the request of the party concerned, order a protective measure in accordance with the provisions of the act on judicial enforcement. An order for protective measure shall not prevent the certificate of enforcement from being issued.

Section 123 A foreign decision declared enforceable in accordance with the act on judicial enforcement shall be enforced in Hungary in accordance with the provisions of the law governing such matters.

CHAPTER XII

CLOSING PROVISIONS

42 Authorising provision

Section 124 The Minister shall be authorised to determine in a decree the existence of reciprocity relating to international legal assistance and the recognition and enforcement of foreign decisions.

43 Provision on entry into force

Section 125 This Act shall enter into force on 1 January 2018.

44 Transitional provisions

Section 126 (1) The provisions of subtitles 31 to 33 shall also apply to ongoing procedures.

(2) The provisions of subtitles 38 to 40 shall apply to decisions rendered following the entry into force of this Act.

(3) Notwithstanding paragraph (2), a foreign decision concerning the personal status and family law relationships of a Hungarian national and complying with the provisions of sections 109 to 111 and sections 116 to 121 shall be recognised even if it was rendered prior to the entry into force of this Act.

45 Compliance with the law of the European Union

Section 127 (1) Section 44(4) of this Act serves the purpose of compliance with Article 9 of Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements.

(2) This Act contains provisions for the implementation of

a) Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters in section 81,

b) Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 in section 101 (1) and section 106,

c) Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) in section 59,

d) Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 in section 77,

e) Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation in section 30, and

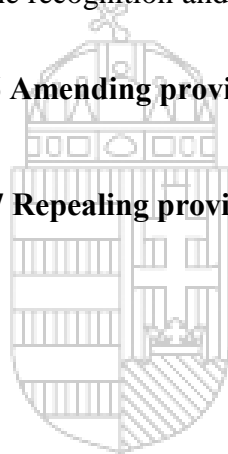
f) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters in section 3 (c).

46 Amending provisions

Sections 128 to 133

47 Repealing provisions

Section 134



MINISTRY OF JUSTICE
HUNGARY