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## GoInEUPlus Project –Seminar Cases

### 1.) Death at the Lake Balaton

**Variation Nr. 1.:** András is a 68 year-old widower whose wife passed away and has two adult children. Given that during his active years he had a successful career as the managing director of a company, he acquired multiple real estates, from which three are located in Italy and one in Hungary. András was born in Hungary in 1950, and later settled in Italy, in the hometown of his deceased wife in Florence. His children are Italian citizens, while he has both Italian and Hungarian citizenships. They used to live in Florence with her wife and children, but 4 years ago, after the death of his wife, András decided that the time has come for him to retire and he needed some environmental change. At that point he decided that he will spend his retired years in his one-time home, Hungary, on the shore of the lake Balaton. His children had already established their own families in Rome, and they had also had successful careers. Thus, he made his decision at ease, knowing that he will spend the last chapter of his life in Hungary. He had lived 3 quiet years in Hungary, when he was found dead on a late autumn day in his house in Balatonfüred.

**-Which state has jurisdiction to rule on the succession?**

**-Which state's law shall be applicable to the succession?**

**Variation Nr. 2.:** András was aware that in case of his death he would make easier the settlement of succession-related issues for his children (heirs) if he chose Italian law as applicable law to the succession. Before his death he exercised his right of choosing the law according to Art. 22 of the Regulation, so he made expressly a declaration in the form of a disposition of property upon death that after his death the succession shall be governed by Italian law.

**-Which state has jurisdiction to rule on the succession?**

**-Which state's law shall be applicable to the succession?**



## **2.) Unfulfilled plans**

Bálint is a 46 year-old married man and the father of a minor child. As he teaches in Spain as a guest-professor, he spends 1 month every year in Madrid. Apart from this, he often travels by plane because he is a well-known professor and researcher on an international level, thus he is invited very often to conferences abroad. During the last symposium in Madrid which he attended, he was asked to be the head of the research group which is entrusted with the research of microorganisms. Bálint was very excited about the request and he accepted it immediately, although he knew that as a result, he will have to spend much more time in Spain and abroad in the future. Bálint and his wife Hanna are Hungarians from Transylvania, thus, they have both Hungarian and Romanian citizenships. The assets of the family are comprised of a smaller family-house in Szentendre, Hungary and a small studio apartment in Madrid. Because of the new job opportunity Bálint started to consider the idea that he will move his family to Madrid for a while, as long as the project he participates in lasts. Bálint was aware that because of his frequent travels he has to face certain risks, so he expressly made a declaration in the form of a disposition of property upon death that after his death the succession shall be governed by Spanish law. He was travelling home from Madrid to tell the news to his family when his flight had to make an emergency landing due to an unexpected malfunction, which resulted in a fire in the cabin. Three passengers perished in the fire and Bálint was one of the victims.

**-Which state has jurisdiction to rule on the succession?**

**-Which state's law shall be applicable to the succession?**



### **3.) Cross border love**

**Variation No 1.** Éva is a 32 year-old single woman, who has a child from her earlier relationship, who is 3 years old now, and of whom Éva's parents are taking care in Győr, Hungary. Éva had nevertheless found her happiness for the second time with the Austrian Klaus, and from their relationship another child was born. The three of them live and work in Vienna, and they also bought an apartment after the birth of their child. Éva visits her older child (Áron) every two weeks, who is being raised by her parents in Hungary, but for the time being she does not intend to bring Áron to herself. They are not married with Klaus but amongst their plans for the near future, marriage is to be found. Éva is a Hungarian citizen. On a foggy autumn morning Éva was doing the regular shopping for the day, and she was in a hurry to the supermarket, walking fast. While she was stepping downwards on the slippery steps of the subway, in a careless moment she slipped and she fell 64 stair-steps down the steep metro-entryway. She has suffered so grievous a skull injury, that she deceased on site. She did not have a will, her assets were the the ½ of the apartment bought together with Klaus.

- Which state has jurisdiction to rule on the succession?
- Which state's law shall be applicable to the succession?
- Who will be Éva's heirs?

**Variation Nr. 2.** Éva and Klaus got married after the birth of their child, but as Éva didn't intend to leave her first child Áron born from her earlier relationship with her parents, they agreed with her husband that for the time Éva is staying home because of the newborn child, she will be living in Győr with the two children, and Klaus will come to them every weekend and spend the weekend with them at Éva's parents' place. In this variation the accident with Éva happens in Győr and she dies in Hungary.

- Which state has jurisdiction to rule on the succession?
- Which state's law shall be applicable to the succession?
- Who will be Éva's heirs?



#### 4.) Death in the Rodna Mountains

Ferenc is a 43 year-old Hungarian citizen. He works as a professional mountain rescuer. He lives in Hungary with his wife but due to his profession, he is not a permanent employee, but he undertakes seasonal jobs in various places in the world. In the winter of 2019 the work and responsibility called him to Transylvania, Romania where he undertook the mountain rescue service for the winter period in a ski centrum in the area of the Rodna Mountains. The first period of the service went by without any complications but at the end of December the number of ski emergencies had risen and the services of the mountain rescue group were needed more often. On the occasion of a ski accident, the group was called on site as usual. Ferenc was a member of the ski rescue team of three people, which has been working on the most dangerous ski track. When the team arrived to the location of the accident, they started the rescue action quickly and effectively as they always did, but meanwhile they did not realize in the blizzard that a giant avalanche was descending. The avalanche came so quickly on the team and the injured that it was impossible to prevent or evade it. The Rodna Mountains took four lives that night. From the four victims Ferenc, the always brave mountain rescuer was one.

**-Which state has jurisdiction to rule on the succession?**

**-Which state's law shall be applicable to the succession?**



## **5.) Hungarians in Brussels**

Péter and Mária are partners and they are both Hungarian nationals. They have lived in Brussels, Belgium for twelve years now. They do not intend to move back to Hungary, as they want to live permanently in Belgium. They live in their apartment in Brussels, which they bought together, and apart from this apartment, each of them owns an apartment in Budapest too. Furthermore, each of them has their own Belgian bank account, and car registered in Belgium. After a long discussion they have decided, they will connect their lives in a formal way too. On the 25th of August in 2019. they got married. From time to time they visit Hungary, and during one of such visits, they decide they make an appointment to a notary public in order to regulate their property-related questions. While both of them are jurists, and are more familiar with Hungarian law than Belgian law, they would like Hungarian law to be applied to their property relations.

### **A) Questions about the matrimonial property**

- 1.) The parties decide, that for their matrimonial property regime the Hungarian law shall be applicable, and they intend to live in a legal matrimonial property regime, that is to say, in a matrimonial community of property according to the Hungarian Civil Code. Will this choice of law be valid in Belgium?**

*Note: Belgium applies, but Hungary does not apply the EU Matrimonial Property Regulation 2016/1103. There is no international convention in force between Hungary and Belgium which regulates matrimonial property questions.*

- 2.) In the absence of a choice of law, which law shall be applicable to the matrimonial property regime in Belgium (for example in case one of them deceased or if the parties divorced)?**
- 3.) The Hungarian notary public (by the request of the spouses) will make a matrimonial property contract for all their property, extending to their property in Hungary as well as in Belgium.**
- a.) The contract will be made by the notary public according to his own law, which means according to the Hungarian law. Shall this contract be regarded as formally valid in Belgium?**
- b.) Which law shall be applied for the *substantial* validity of the contract if the parties don't make a choice of law?**



## B) Succession law related questions

- 1.) **The spouses decide that they will make a disposal upon death before the notary public. They make their disposals upon death separately, and the disposals will be contained in a public document as per the Hungarian law. Considering the formal validity is this disposal upon death valid in Belgium?**
- 2.) **In the will they choose the Hungarian law as the law applicable for the succession. Is this choice of law valid?**
- 3.) **In the absence of a choice of law which state's law shall be applicable for the substantial validity of the will?**
- 4.) **Péter has a car accident and he dies on 20th of February in 2020. Which law shall be applicable to the succession if he did not choose the application of Hungarian law in his will?**



## **6.) Tsunami**

Patrik moved to Vanuatu, to one of the islands of the Pacific Ocean as a Hungarian citizen where he became the owner and operator of a seaside bar. After 10 years, he got the citizenship in Vanuatu as well. He married a local girl, with whom they had two children. He liked to travel and he also visited Australia among other countries. Among his plans he listed that he would open a seaside restaurant there too, so for that purpose he opened a bank account in Sidney, with the Commonwealth Bank. Although he had not travelled to Hungary for a long time, he kept his bank account with the Hungarian OTP Bank. On 4th of December 2018 a 7,5. magnitude earthquake affected the Pacific Ocean which lead to a start of a giant tsunami. In the sudden tidal wave Patrik, who was in his bar at the time lost his life. The local authorities had carried out the succession procedure regarding Patrick's assets located in Vanuatu. After this, his wife travelled to Hungary so that she can arrange the legal fate of the bank accounts left after his husband. The spouse would like if the Hungarian notary public handed over the Hungarian and the Australian bank account at the same time in the same procedure.

- 1.) May the Hungarian notary public hand over Patrik's Hungarian bank account?**
- 2.) May the notary public hand over the Australian bank account, too?**
- 3.) What would be the answer for questions 1.) and 2.), if Patrik had only a citizenship in Vanuatu at time of his death?**
- 4.) Which state's law is applicable to the succession?**



## **7.) Jean-Francois the world traveler**

Jean-Francois had loved to travel all his life. During his long life he lived and worked in many states, he bought houses in multiple countries in the world, where he spent longer or shorter periods. He was a citizen of Canada, but he liked Switzerland, Lausanne the most, where he had his house on the shore of Lake Genf. He also had his habitual residence at the time of his death in Switzerland, Lausanne. He made his disposal upon death in his own handwriting in September of 2015, when he still had his habitual residence in London (United Kingdom). Though he lived in London that time, he made his disposal during his vacation in Florida (USA). He was several times in Hungary too, where he really liked the Balaton landscape. He had bought a holiday house in Badacsony. At the age of 94 on 17 of April 2020 he passed away in Switzerland. His only asset in Hungary is the vacation house in Badacsony.

- 1.) Does the Hungarian notary public have jurisdiction to rule in this case?**
- 2.) Which law shall be applied for the succession?**
- 3.) Which law shall be applied for the admissibility and substantial validity of the disposition upon death?**
- 4.) Which law is applicable for the formal validity of the disposition upon death?**





## **8.) Wilhelms disposition of property upon death**

Wilhelm died as a German citizen in Nagykovácsi Hungary on the 30th of July in 2019. Earlier he used to live and work in Nuremberg, Germany, and in the beginning of his retired years, he moved to Hungary with his wife in 2005. He quickly got to love the small town, he formed a good relationship with the local people, he also learned somewhat the Hungarian language, so it can be stated, that his habitual residence at the time of his death was in Hungary. His assets are the ½ part of the house in Nagykovácsi, an immovable in Nuremberg, in addition to that a Mercedes car and 10 valuable paintings. Even before he moved to Hungary, in 2004 he made a disposal upon death before a German notary.

**1) In his disposal upon death Wilhelm named her wife as a general successor. Among this, in his disposal he worded as follows: „I leave my Mercedes car to my son Hans Jürgen as a legacy, and the 10 valuable paintings (listed in the appendix) which are my property to my friend Otto Hermann. My mentioned dispositions are to be considered as legacy according to § 1939. of the German BGB.”**

**a.) Which State's court or notary public has jurisdiction to rule on the succession?**

**b.) Which State's law is applicable for the succession?**

**2) The deceased made with her spouse a joint will in 2004 in Germany, before a German notary public. In the will they mutually named each other for prior heirs, for the case of the death of the heir which survives the other, they named their common child for a subsequent heir. In the will there is no reference to German law. Which law shall be applicable for the succession?**

*Note: In the German legal practice a generally known and often used will type is a joint will made by the spouses in which the spouses mutually name each other as primary heirs, and they also name a subsequent heir for the case of the death of the surviving spouse.*