

Results of the Project in Hungary: Five Years of the Succession Regulation

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Final conference of the project via streaming

Ádám Fuglinszky

Professor of civil law, Eötvös Loránd University (ELTE) – Budapest, Hungary

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I. Results of Project Activities

1.) Questionnaire (cooperation with the Hungarian Chamber of Civil Law Notaries; with the European Law Advisory Network of the Judges' Academy and with selected academic experts).

2.) Academic papers (five pieces) in our English only, faculty-run, open access and peer reviewed journal: the ELTE Law Journal: www.eltelawjournal.hu - click here to check out the papers:

https://eltelawjournal.hu/wp-content/uploads/2020/06/ELJ-2019-1_full.pdf

3.) The Budapest online seminar: 24 June – 2 July 2020:

- Integrated into the official training programs of the Hungarian Chamber of Civil Law Notaries; Hungarian Bar Association; National Office of the Judiciary – Judges' Academy.

- In numbers: 4 lectures, 1 international round table, 10 interactive case-solving workshops; 123 – 319 participants;

- For the lectures (HUN with EN subtitles) and round table discussion (EN) check out:

https://www.youtube.com/channel/UCS_HoBvkDbqZ4OJjSCUcqDg/videos

- For the cases and hypotheticals solved during the workshop check out:

<https://eventi.nservizi.it/upload/225/altro/angol%20megoldások%20nélkül.pdf>

II. Some Selected Findings

1.) Hungary did not join the EU Matrimonial Property Regulation (No. 2016/1103) does it matter?

- Two Hungarian citizens (partners) live and work in Brussels (since 12 years).
- Bought an apartment together. They want to live permanently in Belgium. (Each of them has an apartment in Budapest and his/her own bank account in Belgium.)
- They get married and visit Hungary from time to time. Which law applies to their matrimonial property matters? Can they choose Hungarian law? (Hypothetical drafted by Tamás Balogh)

	Reg. No. 2016/1103	Act No. XXVIII/2017 (PIL)
Applicable law:	Art. 26 (1) a: State of the spouses' first common habitual residence after the conclusion of the marriage: thus – B!	§ 27 (1): which both spouses are nationals at the time of assessment: thus – H!
Choice of law:	Art. 22 (1) b: nationality of either spouse at the time the agreement is concluded	§ 28 (1) a): the law of the state of which one of the spouses is a national at the time ...



II. Some Selected Findings

2.) Only one reported court case (?)

Debrecen Court of Appeal – BDT 2019/4057: the Succession Regulation does not apply to matrimonial property issues.

3.) Challenges and tensions in everyday application in Hungary (source: presentation of *Tamás Balogh* at the Budapest online seminar)

3a) The mysterious habitual residence

- Follows the legislative trends of the EU (Brussels, Rome), but there applied by the court! Succession procedure in Hungary: the notaries are in charge for!
- Recital 23 v. Very limited toolbox of notaries: *«an overall assessment of the circumstances of the life of the deceased during the years preceding his death and at the time of his death, taking account of all relevant factual elements, in particular the duration and regularity of the deceased's presence in the State concerned and the conditions and reasons for that presence.»*
- Relevant data shall be obtained by the municipality clerk (but how?)
 - Complex; and how to obtain information? Facebook / Insta?

II. Some Selected Findings

3.) Challenges and tensions in everyday application in Hungary

(source: presentation of *Tamás Balogh* at the Budapest online seminar)

3b) Unity of succession (Art. 4, 17) v. Parallel procedures

- Art. 2 + Recital 21: bound by the rules on jurisdiction? Are they covered by the term court?
- Art. 3 (2) + Recital 20: *«broad meaning so as to cover not only courts in the true sense of the word, exercising judicial functions, but also the notaries or registry offices in some Member States who or which, in certain matters of succession, exercise judicial functions like courts»*
- Hungary: YES / but C-658/17 BW: *«it must have the power to decide disputes that may arise. In other words, in the interpretation system of the Court of Justice of the European Union, notaries that can also decide in legal disputes qualify as courts»*
- Recital 36: *«Given that succession matters in some Member States may be dealt with by non-judicial authorities, such as notaries, who are not bound by the rules of jurisdiction under this Regulation, it cannot be excluded that an amicable out-of-court settlement and court proceedings relating to the same succession, or two amicable out-of-court settlements relating to the same succession, may be initiated in parallel in different Member States. In such a situation, it should be for the parties involved, once they become aware of the parallel proceedings, to agree among themselves how to proceed. If they cannot agree, the succession would have to be dealt with and decided upon by the courts having jurisdiction under this Regulation.»*
- European Certificate of Succession is the solution?