Hungary

Mirela Župan, Tímea Drinóczi, Mónika Márton and Ágnes Vihart

Mirela Župan, Tímea Drinóczi and Mónika Márton (all except 3.1.7., 3.2.2., 3.2.3., 3.3.1.1.-2., 3.3.3.)
Ágnes Vihart (3.1.7., 3.2.2., 3.2.3., 3.3.1.1.-2., 3.3.3.)

1. Social perspective.

1.1. Provide the list of different types of living lifestyles/family formations (multi-generational families, nucleus families, couples without children, single-person household, families with one or more members are living separately such as in case of economic migrants, common household of two or more persons without *affectio maritalis*).

Marriage rates have declined over the past few decades in entire Europe.[1] Rate of concluded marriages has been on the tree decade scale dropping in Hungary, lately the rate has increased and become stabile.[2] Pluralization of family forms started in the middle of the 80's. The changing structure of the economy, the broadening possibilities for enrolment in university, the growing career opportunities for both young men and women, on the one hand, and unemployment and growing inequalities, on the other hand, had some effect on family formations. Not only real factors but attitudes and values have also changed during the last thirty years. The political changes in Eastern Europe during the 1990s in long term influenced the demographic transformation of both the region and Hungary. Behavioural patterns of Western countries has influenced the youth, hence their path of living have become different as compared to the previous generations.
In Hungary during the past centuries, but even in the first half of the 20th century, the majority of children were born within a marriage. In the socialism, Hungarian family was of a relatively modern type with some traditional features. The overwhelming majority of the population lived in families which were made up of married couples and two children. Typically, both husband and wife were full-time wage-earners as employees of the state.[3] However, family formations and demographic picture of Hungary has significantly transformed in the last two decades.
According to the census of 1970, 86% and of 1990, 81% of the population of Hungary lived in a family. Since 1970, both the number of single-parent families and married couples without children has increased. The number of families with many children has decreased, while the number of families with two children has increased. These figures are a consequence of the increasing rate of couples with only one child and families without children.[4] In general, the population now has less births and smaller families. The number of first marriages has decreased and couples get married for the first time later in their life. The number of divorces got high; less and less people get married again after a divorce or widowhood. The single-lifestyle and the fact that adult child and parents live together, along with the fewer number of newborn children, caused a decreasing number of families. These changes have started even before the transformation of 1989 but have been amplified in the years of 2000.[5]
Another change relating to children born out of wedlock became noticeable already in the mid 1980's. Nowadays, a quarter of live-born children come from parents who have not married before

[1] OECD (2016) http://www.oecd.org/els/family/database.htm (20.5.2019).
[2] Hungary 2017 (2018) http://www.ksh.hu/docs/hun/xftp/idoszaki/mo/mo2017.pdf, (20.5.2019), 10.
[3] Dupcsik, Cs., Tóth, O., 2014, 9.
[4] http://mek.oszk.hu/02100/02185/html/192.html#198 (20.5.2019).
[5] Népszámlálás 2011, http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_16_2011.pdf (20.5.2019), 7.

the birth of a child. The majority of them lives in a cohabitation and do not consider to legalize their relationship. Having in mind a rather modest marriage rate in comparison to the rest of Europe, cohabitation is, in certain proportion of population, a transitory state toward marriage.[6] 45,1 % of newborn children were in 2017[7] born outside marriage. From the point of view of the fertility and reproduction necessary for ensuring a stable preservation of population size, in the view of some authors, these partnerships represent a loss because in this family forms the partners volunteer for a smaller number of children than those living in a marriage. It is notable that lifestyle is often related to rather limited financial circumstances of families.[8]

The main demographic picture of Hungary in the second decade of the 21st century can briefly be summarized as follows: population decline (accelerated decline of fertility), but less neonatal mortality, decreasing number of marriages and divorces, high rate of out migration, changing rate of expats returning to the country, accelerated aging society. An interesting development is that "living apart together" (LAT) relationships are also spreading in Hungary.[9] LAT means that despite acting as partners, these couples do not share the same household.[10]

1.2. Provide statistical and descriptive demographic and social data regarding the number of marriages and other formal/informal unions in your country.

The decrease in the number of marriages is considered a general trend in the majority of European countries. Hungarian data do not deviate from the overall trend. Between 1990 and 2011, the number of marriages decreased by nearly a half. In the past few years (since 2013) a slight increase has been experienced, breaking the previous tendency of steady decrease. Thus, it appears that the long-term tendency of the declining popularity of marriage has stopped in Hungary. According to the Statistical Office, marriage rate was low in the first years of the 21st century and it has significantly decreased between 2006 and 2010. Between 2010 and 2016, the number of couples getting married increased; it amounted to more than 50 000 in 2016. 2017 experienced less marriage (2,3 % less than in 2016) but the total number of marriages in 2017 was still more than 50 000 (50600) which means the second highest rate since 1996.[11]

As said, the average age of the spouses at the time of their first marriage is continuously increasing. In 1990, women got married at the average age of 21.5 and men at the age of 24.5. In 2013 the average age of women was 29.5 and that of men was 32.3 years. Since the 2010s, men more frequently get married after their 40th year.[12] In 2016, it was almost 30 years for female getting into first marriage and 32 years for male.[13]

Based on the data collected during censuses, it can be ascertained that living in a partnership during socialism was an existing phenomenon even if it was available only to a limited extent. At first, it started to gain more importance as a formation that was only available after marriage but later on, especially by the end of the 80's, it has become a form of co-habitation before the marriage or as an alternative to marriage.[14] Cohabitation is nowadays an alternative to marriage rather than a form of living together before getting married.[15]

[6] Bradatan, C., Kulcsar, L., 2019.
[7] Hungary 2017 (2018), 6.
[8] László Cseh-Szombathy, L., 2003, 10.
[9] Hungary 2017 (2018), 9, 10.
[10] Ragadics, T., 2018, 92.
[11] Hungary 2017, 2018, 10.
[12] Ragadics, T., 2018, 92-93.
[13] OECD (2016).
[14] Spéder Zs., 2005, 191.
[15] Ragadics, T., 2018, 92.

According to the mini-census in 2016, in the last decades the number of persons living in a partnership has increased: in 1990 251 000 persons lived in a partnership, in 2016 this number was 1 087 000, out of which 976 000 person live together with the partner in the same household.[16]
Since 2009, it is possible in Hungary for same sex couples to enter into a registered partnership. The 2011 census indicated 85 registered partnerships. In 2012, 41 same sex couples entered into a registered partnership. The number of registered partnerships has decreased until 2015, but since then it started to gradually increase. In 2017, 87 same sex couples registered their partnership. More male couples tend to go through the procedure of registration but in the last couple of years the number of female couples has tripled.[17]

1.3. Provide statistical and descriptive demographic and social data regarding the number of divorces and dissolution of other formal/informal unions in your country.

In general the declining rates of marriage have been accompanied by increases in rates of divorce. More than half of marriages in Hungary (around 67%) end in divorce. It is noteworthy that such a jump in the divorce rate occurred truly quickly – at the end of the last century, during the transition (1989/1990), only 31% of marriages ended in divorce, and another 20-30 years ago the share was only 25%.[18] There were 18 600 divorces in 2017, which is 4,9% less that those occurred in 2016.[19]

1.4. Provide statistical and descriptive demographic and social data regarding the percentage of these marriages/divorces and unions/dissolutions, which have cross-borders elements (if possible separately for those marriages and unions where the members are not of the same nationality and those which have moved abroad during their life).

There is no available data on marriages, the spouses of which live in Hungary, concerning the citizenship of the spouses, or other cross-border element in the marriage. Regarding the Hungarian citizens living abroad, according to the statistics from 2013, around 52 350 persons/individuals live in marriage or cohabitation, and there are around 3 497 single parents living mainly in Austria (1 937) and Germany (1 144).[20]

[16] https://www.ksh.hu/docs/hun/xftp/idoszaki/mikrocenzus2016/mikrocenzus_2016_3.pdf (20.5.2019), 15.
[17] 2011 Népszámlálás, http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_16_2011.pdf (20.5.2019), http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_16_2011.pdf (20.5.2019), http://www.ksh.hu/docs/hun/xftp/idoszaki/mo/mo2017.pdf (20.5.2019), 17.
[18] Népszámlálás 2011. http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_16_2011.pdf (20.5.2019), 7
[19] More at: https://dailynewshungary.com/divorce-rate-in-hungary-2018-year-tendencies (20.5.2019).
[20] Lakatos, J., 2015, 12-13.

	Austria	Germany	UK	Other EU member states	Other countries	Total
Age						
15–29	10 033	6 836	4 280	3 062	2 347	*26 558*
30–49	27 012	17 448	4 116	7 021	2 390	*57 987*
50–	5 715	5 004	470	1 403	844	*13 436*
Marital status						
Husband, wife, cohabitant	26 094	16 355	1 724	6 643	1 534	*52 350*
Single parent	1 937	1 144	102	172	142	*3 497*
Child	11 679	9 997	6 399	3 694	2 918	*34 687*
Single or other	3 050	1 792	641	977	987	*7 447*

2. Family law.

2.1. General.

2.1.1. What is the main source of Family Law (FL) in your country? What are the additional legal sources of FL?

Family rights are recognized on the highest hierarchical level in the *Fundamental Law* of 2011,[21] the *Family Protection Act* which has been adopted as a cardinal act of two-thirds of the Parliament in 2011.[22] As of sectoral legal sources the main legal source is the *Hungarian Civil Code* of 2013,[23] whose Fourth Book is *Family Law Book.* Act No CCXI on the Protection of Families of 2011[24] and *Act No. XXIX on registered partnership* of 2009 stands alone.
Several other acts and decrees are applicable in child welfare and guardianship administration as well.[25] Among others, the UN Convention on the rights of a child of 1989 and CEDAW - Convention on the Elimination of All Forms of Discrimination against Women have been ratified.[26]

2.1.2. Provide a short description of the main historical developments in FL in your country.

Historically, family law is part of private law in Hungary.[27] Formation of Hungary's traditional legal system begins in the middle of 19th century when the outdated feudal system opened space for development of civil right institutions. Hungary's traditional legal system consisted of different laws, decrees and customs that have covered areas of private law. Among them were the provisions on marriage as well.[28] Introduction of Austrian *Allgemeines bürgerliches Gesetzbuch* (ABGB) into force in Hungary on 1 May 1853 brought to the scene another set of rules related to family law. Consequently, Hungary's traditional legal rules were applied in conjunction with AGBG. Although introduction of ABGB was involuntary, there was genuine need for the rules it offered in the field of

[21] Fundamental Law of April 2011, entered into force on 1 January 2012.
[22] Act No CCXI 2011 on the protection of families was passed in December 2011.
[23] Act No V 2013. It entered into force on 15 March 2014.
[24] Act No CCXI 2011 Hungarian Official Gazette 31 December 2011. It entered into force on 1 January 2012
[25] Act No XXXI, 1997 on the child welfare and guardinaship administration; Order of Government No 149/1997 on public guardianship autority ands proceedings in child welfare and guardisnship cases.
[26] General Assembly resolution 34/180 of 18 December 1979 entry into force 3 September 1981.
[27] Kőrös, A., 1999, 1. 4.
[28] Vékás, L., 2004., 9.

personal rights (for instance declaring a person major or declaring a person legally dead) and family law disputes, particularly adoption and termination of marital property.[29]
Since 1861 the work on Hungary's own code of private law resulted with several drafts. Public presentation of the draft was as follows: general part (1871, 1880), property law, contract law and inheritance law (between 1880 and 1885), and family law (1892). From 1900 on, German private law codified as *Bürgerlichen Gesetzbuches* (BGB) and *Zivilgesetzbuch* (ZGB) of Switzerland exerted a major influence on the evolution of Hungarian private law. However, due to political reasons, Draft Private Law Code (*Magánjogi Törvénykönyv Javaslat*) was never codified.[30] It was only in the late 50's when the *Hungarian Civil Code* (HCC) of 1959 was introduced. However, in the socialist era, family law was not part of the HCC. A separate *Family Act* (Act on Family Law IV of 1952) regulated the matters of marriage, family and guardianship. It is notable that the cohabitation was not regulated by Family Act but HCC. In 1998 the Hungarian Government reached a consensus on having a new Civil Code framed. Recodification of the Civil Code opened a question if family related rights should be incorporated or stand alone.[31] A holistic approach to private law resulted in a break up with the ideas of socialism and led to the incorporation of family law to a separate book of civil code. Separate section was justified as legal regulation of personal relations among family members required independent treatment to their property relations.[32] The Family Law Book consists of five major parts: principles, marriage, family law consequences of cohabitation, relationship of relatives and guardianship.
In 1977 rules on the cohabitation have been introduced in the HCC while the contractual perception of cohabitation prevailed. These rules were twice amended (in 1996 and 2009). Registration of Cohabitants' Statements was introduced in 2009. In the recodification of civil code cohabitation gained double status: cohabitation is regulated in the Sixth Book, but the family law consequences of cohabitation were placed in the Fourth Book.
At the level of the constitution, the Constitution (1949, radically changed in 1989 and 1990) provided for the protection of marriage and family in its Article 15. The Fundamental Law, in its Article L) represent a different approach to the self-determination of persons regarding their personal life, as it does not provide for the same legal acknowledgment of the many types of family formations. (See more about it below.)

2.1.3. What are the general principles of Family Law in your country?

General principles of Family Law in Hungary derive from the *Family Law Book* and *Fundamental Law.*
There are **four general principles of family law** enlisted by §§ 4:1-4:4 of the Family Law Book: protection of marriage and family, protection of the child's interest, equality of spouses and lastly fairness and the protection of the weaker party.
The first principle is the **protection of marriage and family**. The notion of marriage or the family, and related principles should be read in conjunction with the *Fundamental Law*. The *Family Protection Act* at the time of its enactment in 2011 employed a rather narrow concept of family. The Fundamental Law, in its original text, before the Fourth Amendment in 2013, defined it as the basis of the survival of the nation (Art. L)). Thus, family, based on the text of the *Family Protection* Act of 2011, was considering merely "the marriage between a man and a woman or lineal affinity or guardianship". The Constitutional Court declared this formulation unconstitutional and annulled it.[33] 'As for the definition of 'family', the main argument of the Court in this decision was that Article L) of the Fundamental Law cannot be interpreted as a provision excluding those in a partnership who take care of and raise each other's children, different sex-couples without a child and many other forms of

[29] Vékás, L., 2004., 9.
[30] Vékás, L., 2004., 9.
[31] Weiss E., 2000., 2. 5.
[32] Szeibert, O., 2016, 109; Szeibert, O., 2013.
[33] Decision of the Constitutional Court No. 43/2012 (XII. 20.)

longstanding emotional and economic cohabitation, which are based on mutual care and fall within wider, more dynamic sociological notion of family from the state's objective positive obligation to provide constitutional protection. The new provision supplementing Article L), as a result of the Fourth Amendment in 2013, is as follows: 'Family ties shall be based on marriage and the relationship between parents and children', which is too narrow and discriminatory. It is clearly discriminatory and contrary to common sense and legal considerations and case laws.'[34]

In summary, the Fundamental Law declares that Hungary protects the institution of marriage, "the conjugal union of a man and a woman based on voluntary and mutual consent and the family". There is only one basis of the family, and this is marriage. Legal consequences of this definition are far reaching. Namely, merely the spouses in a marital union may enjoy the principle of fairness and weaker party protection once legal consequences are questioned. Citizens living in other types of family unions, registered partners and cohabitants are not afforded with equality preserved only in regards the spouses. This situation may affect the life of children living in rainbow families.

The **child's interests and rights** stand up as a second principle. The principle enshrines that a child, its interests and rights are specially protected in family relationships. It further establishes that the child has a right to be brought up in his or her own family and familial environment. Should that be impossible, child has to maintain his / her family relationships. A child can be deprived of his family environment and relationship to his family only exceptionally, in situations prescribed by the law, if such a restriction is in the best interest of a child.

The third principle is the **equality of the spouses**. It is a traditional family law principle stemming to equality in family issues and matrimonial life.

The fourth principle relates to the **fairness** and **protection of weaker party**. These principles are particularly important in the property relations of the spouses.

2.1.4. Define "family" and "family member" in your country. Is a single definition valid for the entire legal system or are there different definitions for different purposes (family law, succession law, tax law, etc.)?

The *Fundamental Law* contains the definition of family: "Hungary shall protect the institution of marriage, the conjugal union of a man and a woman based on voluntary and mutual consent and the family as the basis for the survival of the nation. The basis of the family is marriage and the parent-child relationship". Hence, in the Hungarian legal system family members are citizens in a community based on marriage spouses and children.[35] "Family" or "family members" are not the citizens in a community based on cohabitation or registered partnership. This narrow concept of family is strongly criticized.[36] It is in opposition to ECtHR case law on the definition of family. The legislators approach is supported by neither the academia nor judiciary. To assure enjoyment of full rights to all family formations, the extensive interpretation is advocated.[37]

If family may not be founded on cohabitation or same sex registered partnership, it is doubtful if participants of these unions enjoy some rights in sectors such as tax law. Strictly interpreting the Fundamental Law, no one is entitled to anything, who does not fall under the definition of Art L) of the Fundamental Law.

In reality, however, there are contradictory examples. Rules applicable for marriage are also applicable for registered partnerships (that is available only for same-sex couples), save for the following: common name in marriage chosen at the time of the registration of the partnership, different procedure for entering and dissolution of the registered partnership, they cannot adopt a child together. But otherwise, same rules apply. Heterosexual couples enjoy fewer guarantees as

[34] Drinóczi, T., 2016, 84-85.
[35] Szeibert, O., 2016, 110.
[36] Opinions of the Venice Commission regarding the constitution making process in Hungary (Opinion on the new Constitution of Hungary [17-18 June 2011]; Blagojević, A., Drinóczi, T., 2012, 225-286., Drinóczi, T., 2016.
[37] Kőrös, A., 2008, 24-26.

opposed to those living in a marriage. They can request the public notary to register their cohabitation (this cannot be called registered partnership as it is for the same sex couples). It would help them to prove that they have actually lived together and the relationship is a *de facto* marriage if they have to initiate a court proceeding for any kind of matters (inheritance, accommodation, allowance in case of widowhood, etc.)
If heterosexual and homosexual couples can prove their cohabitation, they are entitled to family tax allowances, widow-pension, and can make medical decisions.
In a reported case in which the bureau denied to give GYED (kind of paid parental leave) to the partner of the man who adopted the child (partners to a same sex couples can adopt individually), the court later on decided that the GYED shall be given to the non-adopting partner as well; and it did not consider the sex of the other partner as a decisive factor. Other facts of the case: they have lived in a registered partnership. The *Háttér Társaság* legal aid service reports that neither the bureau nor the citizens are really aware of the rights that couples in a registered partnership are entitled to.[38]

2.1.5. Family formations.

According to the Hungarian legal system, family formation is the marriage. HCC's wording "family" coincides with that of the Fundamental Law. Avoiding the wording "family formation" is purposive. In a tacit way it serves to exclude other formal and informal unions of the enjoyment of family rights.[39]
Marriage is regulated by Family Law Book of the Civil Code. Registered cohabitation is regulated by a separate Act on Registered Partnership since 2009. Cohabitation is regulated by Civil Code (since 1977), but under the new regime of 2014. It is divided to two books: definition, property and contractual issues of common household are within the Sixth Book, whereas family law consequences are in the Family law Book.

2.1.5.1. Define the "spouse" in your country and describe briefly the marriage requirements (in particular as to the sex/gender). Is a single definition valid for the entire legal system or are there different definitions for different purposes (family law, succession law, tax law, etc.)?

The spouse is the person who has entered into a marriage with another person of a different sex. The new status emerges when entering into a marriage. Conjugal union of a man and a woman is based on voluntary and mutual consent.
In front of the registrar, the future spouses must prove that they comply with legal preconditions for marriage. Persons of opposite sex may enter a marriage if they comply with the following conditions:

- age (above 18; minors of 16 can enter a marriage, but only if authorization is granted by the holder of parental responsibility or custodian)
- free marital status (if one of them is a foreign citizen, then it is necessary to determine whether they have the right to marry according to their domicile right)
- not relatives
- not legally incapacitated under full custody.

If the parties do not marry within one year this procedure must be repeated. Marriage is concluded in front of the registrar with the mandatory attendance of the bride and the broom and two witnesses. It is concluded in the official premises, but upon request of the parties it may be displaced to another appropriate place. The celebration of marriage is evidenced by an entry to a status book, which has merely a declaratory nature. Marriage is considered concluded with the given consent of the future spouses.

[38] https://ado.hu/tb-nyugdij/meleg-paroknak-is-jar-a-gyed/ (20.5.2019).
[39] Szeibert, O., 2017, 183.

There are no different definitions of a spouse for different areas of law. Hence, the definition of a spouse in family law is considered valid for other areas of the legal system (succession law, tax law etc.).

2.1.5.2. What types of relationships/unions between persons are recognized in Family Law of your country? In particular, formal (registered) and informal (de facto) unions, heterosexual and same-sex unions, unions with and without affectio maritalis. Please define and explain. Is a single definition valid for the entire legal system or are there different definitions for different purposes (family law, succession law, tax law, etc.)?

The relationships acknowledged, according to the Hungarian legal system, are those related to marriages, cohabitation and registered cohabitation.
The **marriage** is the act concluded among opposite sexes before the registrar of civil status. By this act a man and a woman express consent to enter a marriage and commit themselves to realize a communion of life and affections. This communion has to be based on reciprocal assistance and respect. Rules of Family Act of 1952 are in relation to marriage formation and dissolution mainly retained in the new Civil Code.
Cohabitation is a de facto communion of unmarried partners, two persons either of different sexes or same-sex persons (since 1995, based on a decision of the Constitutional Court[40]), who live together without entering into a marriage or, since 2009, registered partnership. The requirement of existence of a cohabitation is a common household, and community of life that reflects as emotional fellowship and economic partnership. Cohabitants may not be relatives or siblings/half-siblings. Cohabitants must be free of other formal or informal relationships with third persons – neither of them may be in a marriage, cohabitation or registered partnership with third person.
Cohabitation is formed and terminated with the facts of the couple. Once real community of life is created it exist – as community of life ceases to exist, the cohabitation is terminated.
Since 2010 different sex-cohabitants may register a common statement confirming the existence of the cohabitation. It is performed in front of public notary and is of a declarative character in terms of their status; some additional rights are conferred to the couple. Registration is however used to form a parental status – as the presumption of fatherhood counts for a couple in cohabitation with registered statement.[41]
The registered partnership is the relationship established between two adult persons of the same sex. Formal procedure to conclude a registered partnership does not differ much to the procedure of conclusion of a marriage. Parties must give a declaration before a registrar. The validity of a registered partnership is conditioned to monogamy- neither of the partners may be in a marriage, registered partnership with a third person. Registered partnership is terminated either before a court or before a public notary (if it is asked jointly); rules for divorce apply.

2.1.6. What legal effects are attached to different family formations referred to in question 2.5.?

The legal effects of the marriage emerge when entering into a marriage and stay fixed. Legal effects are personal or relate to a property.
In Hungary, spouses are equal in terms of rights and duties, but special protection is afforded to the weaker party. Spouses are obliged to solidarity and fidelity. Married spouses are obliged to be faithful, to cooperate and reach decisions jointly, to take care of the interests of the family, to take care of a child, to assist each other in achieving common family interests. The spouses jointly decide on their habitual residence. These obligations do not fully cease even after a divorce. Further

[40] 14/1995 (III. 13.) AB határozat.
[41] Szeibert, O., 2016, 118.

personal rights are also concerned with the use of personal names and surnames. Legal effects that relate to property may be the maintenance obligation of a spouse or former spouse.
Legal effects that relate to property and successions would be elaborated on later.
Legal consequences of the registered partnership are very close to that of a marriage, with some exceptions (name, joint adoption, procedures of entering and dissolving the registered partnership; otherwise the rules on marriage applies).
One of the main points of departure relates to related personal consequences. Registered partnership act does not afford a partner to use the partners surname by virtue of a mere status. Registered partner is further deprived of parental options – they cannot adopt jointly, one partner cannot adopt a child of the other partner and there are deprived of medically assisted reproduction. But they can adopt individually. This legislative choice may have negative implications to the rights and best interest of the child, if for example the adopting parent dies or eaves the child.
Registered partners must reach an agreement of their common residence. Legal consequences in relation to maintenance of the parties do not differ to such consequences in marriage.
Property consequences of registered partnership are equal to the marriage property consequence. Legal effects that relate to property and successions would be presented later in a more detailed manner.
Legal consequences of cohabitation are rather different to the above mentioned consequences of formal unions. The cohabitant's parental options are slightly better than the ones afforded to registered partners. Parental rights are equal to those of parents in marriage, though the procedure of establishing parentage differs. There is no automatic application of a presumption of fatherhood; a declaration of fatherhood, which is a separate act of the father, is advised to be made to ensure parental rights. No joint adoption possibility is foreseen either. However, for opposite sex cohabitants the medically assisted reproduction is allowed. There is no maintenance obligation among the cohabitants.

2.1.7. Have there been proposals to reform the present legislation in the context of marriage and formal/registered or informal/de facto family formations? Explain briefly.

There are currently no proposals for reform. The legislative reform just took place in 2013.

2.2. Property relations.

2.2.1. List different family property regimes in your country.

The default **matrimonial property regime** is the community of property. This is the only default regime since 1952 as it is considered to protect equal rights of the spouses. Stemming from the principle of equality between spouses, Hungarian property regime lies on an obligation of both spouses to contribute in material sense. The new Family Law Book provides for two alternative regimes: the participation in acquisitions regime and the separation of property regime. Civil code gives spouses greater autonomy to marital property contracts: spouses may enter a "matrimonial agreement" to define every aspect of division and management of the property. Hence, spouses are allowed to deviate from the default and alternative property regime by their contractual freedom. If matrimonial property agreement is not stipulated, in the time of marriage duration, irrespective of the actual existence of marital community, the default regime applies.
The property regimes of **registered partners** are completely overtaken from the marriage property consequences.[42] Hence, the above mentioned applies.

[42] Art. 3 (1) a)-c) of Act XXIX of 2009 on Registered Partnership and Related Legislation and on the Amendment of Other Statutes to Facilitate the Proof of Cohabitation.

The property consequences of **cohabitation** are different to those in marriage, and for political reasons this difference is retained. Cohabitants are considered contractual partners and their mutual property regime is regulated as such. Partners may arrange their property relations by means of a contract for the duration of their partnership. Civil Code prescribes formal requirements for such a contract: it has to be executed in an authentic instrument or in a private document countersigned by an attorney. Cohabitants are free to arrange any regime otherwise applicable for married couples under a marriage contract.
In the absence of partnership contract the partners are considered independent in their property acquisitions during their cohabitation. Cohabitants acquire common property in proportion amounting to their contribution in acquiring it. It is notable that work done in the household is calculated as contribution. In case the proportion may not be calculated, the presumption on equal shares applies. In event of a cohabitation breakdown, each partner may request the division of property jointly acquired during the period of cohabitation.[43] There is no statutory provision on division on special items of property. Property consequences, such as maintenance, cannot be claimed. Neither is there a statutory rule on "protection of family home". However, partners may enter an agreement on the further use of their common home in event of partnership termination. Formal validity of such an agreement is subject to form of either authentic instrument or a private document countersigned by an attorney.[44]
As of 1 January 2010, opposite sex couples are entitled to request the registration of their cohabitation with a public law notary. This registration has to be distinguished from the one described in the first paragraph (registered partnership). It does not create any new rights or obligations but merely facilitates proof of the existence of the partnership (Art. 36/E-36/G of Act XLV of 2008 on Certain Non-Litigious Notarial Procedures).
Successions rights are not afforded to the cohabitant, except by the will.

2.2.2. Define briefly the (default) legal regime under in your country. Which categories of assets are regulated under the legal regime (e.g. community of assets, community of accrued gains, deferred community and personal assets)? What property is included in community of assets, and what property is included in personal assets?

The default legal property regime is the **community of property** (statutory matrimonial property regime) acquired by spouses after the marriage was concluded. This regime may be effective also retroactively, for the time of the spouses' life partnership preceding marriage. Community of property regime lasts for the duration of their joint marital life.[45]
It is a joint indivisible (undivided, common) property, which belongs to spouses in equal parts of the corresponding property. It relates to all assets the spouses have acquired together or separately, as well as the burdens and obligations that one of them took the burden.[46] The exceptions are the assets belonging to a spouse's personal assets. However, if profits from separate assets were accrued during the joint marital life, they are also part of the common property. If such separate property profit required administrative or maintenance costs and charges, they are deducted from the profits.[47]
Personal assets - individual property of each spouses are the property each spouse had acquired before the marriage, or the assets acquired in the marriage lifetime as a result of gift / donation or succession without compensation being imposed, intellectual property, compensation for damages received for personal injury, property for personal usage (of customary value) and fruits of the property obtained through the sale of individual property of each of the spouses.

[43] Art. 6:516 of the Civil Code.
[44] Art. 6:517 of the Civil Code.
[45] Art. 4:34 (2) and 4:35 (1) of the Act V of 2013 on the Civil Code.
[46] Art 4: 34-35 of the Act V of 2013 on the Civil Code.
[47] Art. 4:37 (1) and (3-4) of the Civil Code.

Part of the individual property acquired before the marriage are also the debts, burdens and interest. If part of individual property is in everyday usage by both spouses, it becomes a common property after spouses have been married for five years.[48]

2.2.3. Is it permissible to conclude a matrimonial/partnership property agreement or agreement related to property within another type of family formation? What are the conditions and permissible contents of these agreements? In particular, may the spouses only choose among offered matrimonial property regimes or can they create a "new regime just for them"?

Since 1986 spouses were allowed to enter a property agreement. It was allowed under the 1952 Family Act, though it was rarely employed in practice. The prevailing socialist attitude was the personal nature of family law, disregarding the proprietary aspect of the family.

The recodification of Family Law opened up a space to align with modern European trends, particularly as promoted by the CEFL Principles of European family law regarding property relations between spouses.[49] The new Family Law Book strongly encourages contractual freedom of the spouses and it is permissible to conclude **marital agreement relating to matrimonial property**. The spouses are allowed to deviate from the default and alternative property regime by their contractual freedom. This possibility presents a departure from the CEFL principles as well.[50]

Marital agreement is concluded by the future spouses (before marriage celebration) or present spouses for the duration of their matrimonial relationship, if such deviation is not precluded by the Civil Code. Marriage contract enables spouses to deviate from the rules on default and alternative property regimes. Spouses may define several different property regimes relating to certain specific assets (depacage). The parties shall also have the option to make arrangements for the use of the common home in the marriage contract (4:78 CC). The marriage contract is considered null and void if almost all of the separate and all of the common assets are given to one spouse, with no real compensation to the other spouse.

Formal requirements for a marriage contract: the marriage contract is validly concluded if it has been drawn by a civil law notary in a form of an authentic instrument, or, if it is a private instrument countersigned by an attorney[51] If the marriage contract is concluded prior to marriage, it comes into effect upon commencement of the joint marital life of the spouses. In case the marriage contract is concluded after the marriage celebration, its effects are valid of the signature of the contact.[52] Spouses are free to terminate or modify the marriage contract, but not to the detriment of a third party.[53]

Registered partnership is in terms of property consequences equal to marriage, hence the above mentioned applies analogously.

Partners in cohabitation may arrange their property relations by means of a contract for the duration of their partnership. Civil Code prescribes formal requirements for such a contract: it has to be executed in an authentic instrument or in a private document countersigned by an attorney. Cohabitants are free to arrange any regime otherwise applicable for married couples under a marriage contract. A partnership contract has to be recorded in the national register of partnership contracts to become effective against third parties. Absent such record, the contract is effective against the third party if the partners successfully prove the awareness of the third party of such contact and its content.[54]

[48] Art 4: 37-38) of the Civil Code.
[49] http://ceflonline.net/wp-content/uploads/Principles-PRS-English1.pdf (20.5.2019).
[50] Szeibert, O., 2016, 189.
[51] Art. 4:65 (1) of the Civil Code.
[52] Art. 4:64 (1) of the Civil Code.
[53] Art. 4:66, 4:67 of the Civil Code.
[54] Art. 4:65 (2) of the Civil Code.

2.2.4. Explain briefly the rules on the administration of family property and compare if there are difference for different property regimes.

Both spouses are entitled to administer common property by common and mutual agreement. Each of them may use the assets for the purpose they regularly serve. Each of them should be cautious not to exercise his rights with prejudice to the rights and lawful interests of the other spouse.
The management is performed always with the consent of the other spouse, whereas they jointly decide on the protection and preservation of shared property. One of the spouses may, without the consent of the other spouse, take immediate action to preserve the property. In the event of urgent measure for the protection of the common assets by one spouse, he/she is obliged to immediately notify the other spouse.[55]
Parts of the shared property which are used to perform a business are used by the spouse that performs the business, with the consent of the other spouse.[56]
Spouses from common property bear the costs of maintaining and managing joint property and households, and if they are not sufficient, then they have to bear them from their individual property. If only one of them has a personal property, then he has to bear the costs.[57]
The joint house of spouses is a space they live, over which one or both spouses have the right of ownership, enjoyment or a rent. If the spouses share joint right of enjoyment of a house they share joint responsibility in its management. Spouses may enter a special agreement on use of a joint house. It can be in the form of a public notary, private agreement certified with a signature of an attorney or special agreement on joint shared property management.[58] If such contract is concluded using only an electronic signature, or it is concluded in electronic form and signed electronically, it is null and void.[59]

2.2.5. Is there a (public) register of such agreements established in your country? If yes, describe briefly the proceedings for registration and legal effects of registration.

Specific register of agreements concerning property regime was a widely discussed topic in the stage of recodification of the family law. The new Civil Code established the National Register of Marriage and Partnership Contracts (Register).
Data contained in the Registry relate to contracting parties (their personal data: name, birth information), data on contract (authentic instrument >ID< or data on private document countersigned by an attorney), data on a notary performing registration, data on termination of a contract.[60]
Any person with legal interest may access the information on existence of a contract at any Hungarian notary. Subject to taxes, notary can deliver a certificate on the existence or non-existence of a contract in the register. If a person is interested in the content of the contract, they have to address the notary that registered (or later modified or terminated) the contract. The notary is entitled to reveal the content of the contract only if they have received written permission of one of the contracting parties.
Legal consequences of the registration. There is a rebuttable presumption that the Register attests with authenticity that the recorded contract exists.[61] A partnership contract has to be recorded in the national register of partnership contracts to become effective against third parties. Absent such

[55] Art. 4:42 (1-2) of the Civil Code.
[56] Art. 4:43 (1-2) of the Civil Code.
[57] Art 4: 42-44 of the Civil Code.
[58] Art. 4:65 of the Civil Code.
[59] Boros, Zs., Kőrös, E., Makai, A., Szeibert, O., 2013, 123.
[60] Art. 36/K of the Act XLV of 2008 on Certain Non-Litigious Notarial Procedures.
[61] Art. 36/H (4) of the Act XLV of 2008 on Certain Non-Litigious Notarial Procédures.

record, the contract is effective against the third party if the partners successfully prove the awareness of the third party of such contact and its content.[62] The provisions pertaining to the register of marriage contracts apply *mutatis mutandis* to the register of partnership contracts.[63]

2.2.6. What are the third party rights in relation to the matrimonial property regime, in particular if there is no public register? Which debts are considered community debts and which are considered personal debts?

Dispositions relating to the common property are performed collectively, or subject to the other spouse's consent. There are however no statutory requirements on form of the other spouse's consent.[64] There is in general a presumption that a contract for pecuniary interest concluded by a spouse is concluded with the other spouse's consent, unless the contracting third party was aware, or should have been aware that the other spouse had not given his/her prior consent for the contract.

In relation to a contract aimed at satisfying one of the spouse's everyday needs, or within the framework of the pursuit of profession or business activity of one of the spouses, the lack of consent may be invoked by the other spouse if he has expressed objection before the contract was concluded to the contracting third party.[65]

Where a sole spouse enters into a contract involving community property, such a spouse is liable for any debts arising out of or in connection with such contract. That spouse has to bear these costs from his own individual property or that spouse's share of the community property. If a spouse did not take part in concluding a contract entered by the other spouse, but initially concluded with the consent of the non-participating spouse, such non-participating spouse is only liable against third parties with his/her share of the community property.[66]

There is no statutory presumption on the consent of the other spouse if a sole spouse disposition relates to a real estate property serving as the jointly owned family home. The rule relates to such dispositions done in the course of a marriage or in the period between the termination of the marriage and the division of community property.[67] Hence, such disposition is null and void.

If a spouse did not consent to a contract related to a community property concluded solely by the other spouse, and no consent can be presumed or the presumption has been rebutted, the spouse shall not be held liable for any obligation arising out of or in connection with that contract. Such a contract concluded without the spouse's consent has no effect against the non-consenting spouse, if the acquiring party acted in bad faith or had a gratuitous advantage originating from the contract. If the other spouse concluded the contract with his/her relative, bad faith and gratuitous nature shall be presumed.[68]

In the absence of a consent of the other spouse a spouse cannot have a jointly owned apartment or joint property in favour of a private enterprise, a company or a co-operative. A spouse who, without the consent of a spouse, concludes a contract with which he or she is burdened, is obliged to compensate for the incurred damages, unless he proves that the legal job served the interests and will of the other, and especially if it prevented the damage of the common property.[69]

Any debts incurred during the marriage should be covered out of the community property, if the debts arise out of or are in connection with obligations undertaken by either of the spouses during community of property. Burdens and debts arising out of the separate property of either spouse are

[62] Art. 4:65 (2) of the Civil Code.
[63] Art. 6:515 of the Civil Code.
[64] Art. 4:45 of the Civil Code.
[65] Art. 4:46 of the Civil Code.
[66] Art. 4:49 of the Civil Code.
[67] Art. 4:48 of the Civil Code.
[68] Art. 4:50 of the Civil Code.
[69] Art. 4:52 of the Civil Code.

treated separately and community property shall not include those assets.[70] Rather similar is the position of debts in connection to an act that took place prior to marital life, which shall be charged of the separate property.
However, even a debt that belongs to the separate property of one of the spouses makes the other spouse is liable for it in relation to third parties.[71]
Spouses bear the costs of maintaining and managing joint property and households, as well as raising the children from common property. If they are not sufficient, they shall be covered from the spouses' separate property. If only one of them has a personal property, then he has to bear the outstanding costs.[72]

2.2.7. Describe allocation and division of property in case of divorce, separation or dissolution of the union.

Shared property ceases if the souses enter a marriage contract and exclude its existence. Shared property ceases to exist if such court decision is rendered or marriage is terminated. The court can break the joint property: if a spouse has entered into a contract without the consent of the other party or has caused a debt that is endangering part of the joint property belonging to the spouse or if he is performing its business activity has become bankrupt, or if it is executed on joint property which also endangers part of the common property belonging to the other spouse, as well as if it is a spouse placed under guardianship.[73] In the event of a joint property braking, spouses from the court may request a split of property. The extent of the spouse's share is determined based on the condition and value at the time of termination of the joint property. The contract of spouses about the division of property should be made in the form of a notary public or a private document signed by a lawyer.[74] It should be stored in the state registry in order to produce effects in relation to third parties. Otherwise, it is necessary to carry out special evidence procedure to determine whether the third person knew about the contract that the particular property is under joint ownership of the spouses.
The court together with the question of abolishing the common property solves the abolition of the joint ownership of the house which one of the spouses has filed in a divorce or divorce request.
The court that performs the division of the rights in rem and rights and claims forming part of community property shall establish the share of a spouse from community property on the bases of the status and value prevailing at the time of termination of community of property. Specific items of community property shall be divided subject to provisions on the termination of joint ownership.[75] Spouses are invited to present an agreement of the distribution of the assets, which is taken into account by a judge. If some assets are used by one of the spouse's profession or private entrepreneurial activities, such assets would accrue to that spouse.[76]
After the termination of the community of property, the spouses are liable for the joint debt in proportion to their respective shares in the common property, i.e. on a 50-50% basis.[77]
Spouses are entitled to a claim for compensation for expenses spent from community property on separate property, from separate property on community property and from the separate property of one spouse on the separate property of the other spouse. Where an expenditure results in a considerable increase in the value of real estate property, the spouse entitled to compensation may also claim to an ownership share corresponding to the increase in the

[70] Art. 4:37 (2) and (4) of the Civil Code.
[71] Art. 4:39 (1-4) of the Civil Code.
[72] Art. 4: 42-44 of the Civil Code.
[73] Art. 4: 53-56 of the Civil Code.
[74] Art. 4: 60-62 of the Civil Code.
[75] Art. 4:60 of the Civil Code.
[76] Art. 4:61 (1-2) of the Civil Code.
[77] Art. 4:61 (4) of the Civil Code.

property's value. However, if the spouse liable to provide compensation has no separate property, or there is no community property at the time of termination of the marriage, there shall be no right of compensation.[78]
In event of a death of one of the spouses the matrimonial property is divided subject to dispositions of the marriage contract, or in event of its absence, as described above. Once the share of the surviving spouses is established, the share of the deceased spouse is divided under successions rules.

2.2.8. Are there special rules or limitations concerning property relationship between spouses or partners with reference to their culture, tradition, religion or other characteristics? For instance, is dowry regulated under your legislation?

No.

2.3. Cross-border issues.

2.3.1. Is your country participating in the enhance cooperation with regard to the two Regulations (1103/2016 and 1104/2016)? If not, what is the reason? Is there a likelihood that your country will join in the future?

The attitude of Hungary towards the regulations adopted under the enhanced cooperation umbrella is diverse. Hungarian state adopted the Rome III Regulation,[79] but it does not take part in the enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the property consequences of registered partnerships.
It is not likely it would join.

2.3.2. Are you expecting any problems with the application of the two Regulations? In particular, concerning their scope of application? Or, particular term, such as "marriage", "matrimonial property agreement", "partnership property agreement" etc.?

Hungary does not take part in the enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the property consequences of registered partnerships.

2.3.3. Are you expecting any problems with the application of the rules on jurisdiction?

Hungary does not take part in the enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the property consequences of registered partnerships.

2.3.4. Are you expecting any problems with determining the applicable law? In particular, regarding the choice of applicable law?

Hungary does not take part in the enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the property consequences of registered partnerships.

[78] Art. 4:59 of the Civil Code.
[79] 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 (Rome III Regulation), OJ 2010 L 343/10.

2.3.5. What issues are expected regarding the recognition and enforcement? In particular, concerning the public policy?

Hungary does not take part in the enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the property consequences of registered partnerships.

2.3.6. Are there any national rules on international jurisdiction and applicable (besides the Regulations) concerning the matrimonial property regime in your country?

Hungary is among the Member States that have recently amended the private international law legislation. The Hungarian Parliament adopted Act XXVIII of 2017 on private international law on 4 April 2017, it entered into force on 1 January 2018 (hereinafter: PIL Code).[80] This Act has fully replaced the decree-law on private international law of 1979. The new regime was investable due to changed economic and social circumstances, as well as intensive international and European private international law unification.[81] It is an integral law covering areas of applicable law, jurisdiction, recognition and enforcement of foreign decisions, institutes of international civil procedure.[82] Since Hungary does not participate in enhanced cooperation, the regulation of matrimonial property matters has remained of national competence. The PIL Code had to adopt rules regulating the matrimonial property regime as well. Moreover, in this area it is seriously departing from the former 1979 regime by introducing the restricted autonomy to choose the applicable law in property matters for spouses and (registered) partners. It is worth nothing that legal effects of marriage and registered partnership are equalized in cross-border issues as well.

In applicable law area the first connecting factor is the party autonomy. Spouses, or men and women intending to marry, have an option to choose the law applicable to their property relationships.[83] The regime is equal for registered partnership as well.[84] The choice of law is however limited to enumerated connecting factors. Hence, they can select the law of the state of citizenship of any of the spouses, the law of the state of the habitual residence of any of the spouses or the law of the state of the court seised. The choice is valid *pro futuro*, unless otherwise agreed. The list of connecting factors of limited party autonomy coincides with the ones listed in the EU property regulations,[85] with a minor exception. Namely, the choice is extended in Hungarian PIL to possibility to choose the *lex fori* as well.

In the area of jurisdiction the general jurisdiction is with the domicile of the defendant. For proceedings on the personal and property relationships of spouses, a Hungarian court has jurisdiction if the habitual residence of the spouse who is the defendant is located in Hungary; if the last common place of habitual residence of the spouses was located in Hungary, provided that the place of habitual residence of one of the spouses is still located in Hungary at the time of bringing the action; or if both spouses are Hungarian citizens. In these matters, the jurisdiction of a Hungarian court is also established if the property constituting the subject of the legal dispute is located in Hungary. [86]

If the matrimonial property issues appears as a request in the proceedings concerning the marriage, a Hungarian court may settle the property issue if it has valid jurisdiction for settling divorce. Another mode of joining the property claim to other proceedings relates to proceedings on inheritance.

[80] Szabados, T., 2018, 972–1003.
[81] Vékás, L., 2015, 292–299.
[82] Basedow, J., Rühl, G., Ferrari, F., Pedro de Miguel Asensio, 2017.
[83] s. 28(1) PIL Code.
[84] s. 36 PIL Code.
[85] Art. 22 Matrimonial Property Regulation.
[86] Szabados, T., 2018, 1000-1001.

Hence, should a Hungarian court hold jurisdiction for successions proceedings, it may also adjudicate on a matrimonial property matter joined to that main proceedings.
One of the main departures of the PIL Act of the Matrimonial Property Regulation relates to autonomy in choice of *fora*. Under Art. 7 of the MPR the prorogation is allowed, but the Hungarian law does not contain any corresponding provision.
The provisions on the recognition and enforcement of foreign decisions apply only if the case does not fall under the scope of application of any EU regulation or international convention. In section on the recognition of foreign judgements general and special rules are provided for. The general conditions for recognition are that a) jurisdiction of the foreign court seised was founded (based on the Hungarian PIL Code); b) decision became final or has an equivalent legal effect under the law of the state in which it was rendered; c) none of the grounds for denial applies.[87] Reciprocity is not a precondition for recognition of foreign decisions.
Although the entire Hungarian system preserves the spousal relation merely to an opposite sex married couple, judicial practice has to a certain extent broadened the concept. Recently in 2017 Hungarian courts dealt with a refusal of the Registrar to give any effect to a same-sex marriage concluded in Belgium among the Hungarian and American national. Court of First Instance upheld the view of the Register that any recognition would violated the fundamental rights of the Hungarian society. Budapest District Court overturned this position and ruled that the Hungarian state administration must acknowledge the marriage of same-sex couples abroad as equivalent to registered partnerships in Hungary.[88]

3. Succession law.

3.1. General.

3.1.1. What are the main legal sources of the Succession Law (SL) in your country? What are the additional legal sources of SL?

The Fundamental Law establishes that: "Every person shall have the right to property and the right to succession."[89] Act V of 2013 on the Civil Code is the new Hungarian Civil Code, with the Book Seven on the successions.

3.1.2. Provide a short description of the main historical developments in SL in your country.

The history of private law in general has been elaborated in chapter *2.1.2.* The first private law codex in Hungary was the Act IV of 1959 on the Civil Code of the Republic of Hungary (former Hungarian Civil Code), with successions rules as their integral part. Due to many restrictions on private property in socialist era, such as shares in companies, intellectual property, the role of the law of succession was less relevant. By late 80-ies, the collapse of socialist system removed the limitations to private ownership expanding the range of assets that could be held by private individuals. The succession provision in the Civil Code retained in its original form for half a century. However, a broad amount of case law attributed to their interpretation.[90]

[87] s. 109(1) - 109(2) PIL Code.
[88] Case nr. 27.K.32.541/2016/6 (Administrative and Labor Court of Budapest as a court of first instance; http://hatter.hu/sites/default/files/dokumentum/konyvlap/kulfoldihazassag-elsofok.pdf (20.5.2019)) and case nr. 1.Kf.650.054/2017/4. (The Metropolitan Court as a court of second instance; http://hatter.hu/sites/default/files/dokumentum/konyvlap/kulfoldihazassag-masodfok.pdf (20.5.2019)).
[89] Article XIII (1).
[90] Csehi, Z., 2011, 170.

One of the main differences of the new regime is the abandonment of the "widows right"[91] and putting the spouse and a child to the first line of the intestate succession. In the old regime, the spouse would inherit only *usufruct,* the beneficiary ownership of the estate.

3.1.3. What are the general principles of succession in your country?

Initial legal principle is the devolution of succession founded on consanguinity, with preference to descendants, excluding more distant relatives.[92] Primary principle is the autonomy of the testator. Absence his testament the intestate succession comes as subsidiary. [93] Legal principle of the devolution of succession, based on consanguinity, preferring the descendants, excluding distant relatives, comes at place here.
"Universal succession" indicates that at the moment of the deceased's death succession of the entirety of the estate (all the rights and duties) occurs automatically on the strength of law.
The principle of *ipso iure* succession applies, indicating that inheritance is transferred to the heir at the time of death of the testator without any separate legal act. In case heir waives a succession, it takes effect retroactively to the moment of the testator's death and the estate is taken as not having devolved at all.
Another important principle is exemption of the inheritance from the statute of limitations.

3.1.4. Describe briefly the probate proceedings, including competent authorities, commencement, deadlines, etc.

In Hungary, the competent authority to perform the probate proceedings is a public notary or the court. The public notary would deal with a succession matter not disputed among the parties occurring as heirs. In such a non-contentious probate proceeding the notary performs the role of a court, and renders a "grant of probate" as a final formal decision. Court is a competent authority for probate procedures with disputed issues among heirs or any other interested parties.
Probate proceedings is initiated *ex officio*, involving all parties interested in settling the rights in connection to relevant succession. The intention of the legislator is to settle any legal issues among heirs, legatees, estate creditors etc. in a single procedure, if possible.
Probate proceedings consist of two stages. First stage is the inventory proceeding conducted by the inventory official of the competent local mayor's office. His task is to list all personal and material facts of the succession, particularly property included in the estate, persons interested in successions, possible testament etc. Record of the inventory of the estate is forwarded to the competent notary public.
The second stage of the probate proceeding takes place before the public notary designated in accordance to territorial jurisdiction rules. Public notary exercises the public authority of the state in this proceeding. Probate procedure is performed under the rules of a non-contentious court proceeding. The competent notary in probate proceedings makes query of the Register in electronic form in order to inquire whether the deceased was a contracting party of a marriage contract. Should this be the case, the notary requires the transmission of the contract.[94] Public notary examines ex officio the facts and circumstances that determine the order of succession, including the eventual evidence indicating that testament has been drawn. Interested parties are summoned to attend the hearing.
The heirs are invited to conclude an allocation agreement, which would finally settle the proceedings once the public notary issues the grant of probate based on the agreement. In the course of probate

[91] Old Civil Code Article 615, para (1).
[92] Gárdos, P., 2013, 985–1031.
[93] Molnar, H., 2012, 91.
[94] Art. 36/K (3-5) and (10) of the Act XLV of 2008 on Certain Non-Litigious Notarial Procedures.

proceedings, the heirs and other interested parties may also reach an agreement to transfer the property acquired by succession, in whole or in part, to estate creditor.
The probate proceedings end with a formal decision, a grant of probate, by which a public notary legally transfers the estate to the heirs/legatees/creditors. A grant of probate is subject to an appeal before the competent regional court. The final grant of probate is an authentic public document that certifies the status of the heir to persons listed in it by name. The final grant of probate is ex officio forwarded to real estate register.
Heirs do not need to make a statement on acceptance of inheritance, while it is transferred to the heir at the time of death of the testator without any separate legal act. If an heir does not wishes to inherit a statement to waive succession is given either in a written form and handed to the notary performing the probate, or the statement on waiver is given orally in front of the notary.

3.1.5. Describe the types (legal basis) of succession: intestate and testate. Explain the relation between different legal bases for succession and priority existing between them. Is cumulative application of legal titles possible?

Legal definition of a succession is retained of 1959 Civil Code, whereas the succession is: "The estate owned or controlled by a person at the time of decease shall pass in its entirety to the heir."[95] Hungarian law acknowledges intestate and testate successions. If the deceased has left a will, the priority is afforded to testate successions. The rules applicable to intestacy govern succession in the absence of a will. Intestate succession takes place also in event that some estates of the deceased remained excluded of the will, hence cumulative application of legal titles is possible.

3.1.6. What happens with the estate of inheritance if the deceased has no heirs?

In the absence of legal heirs, all estate is given to the State. The State has the same legal status as other heirs, albeit the entitlement to waive an inheritance. [96]

3.1.7. Are there special rules or limitations concerning succession with reference to the deceased's (or heir's) culture, tradition, religion or other characteristics?

No, there are not. If there are some cross-border elements in the private law relationship, either the Regulation 650/2012/EU, or Act XXVIII of 2017 on the international private law applies. The Act required that the Hungarian public policy remains intact; this is the public policy clause. If the foreign applicable law is against the Hungarian public policy, i.e., the application of the foreign law would infringe the basic values of the Hungarian legal system or the constitutional principles, the Hungarian law shall be applied instead of the foreign one. So the cultural, traditional or religious characteristics of the applicable law can influence the case if the characteristic element is part of the applicable foreign law.

[95] Article 7:1 of the Civil Code
[96] Section 7:74 of the Civil Code

3.2. Intestate succession.

3.2.1. Are men and woman equal in succession? Are domestic and foreign nationals equal in succession? Are decedent's children born in or out of wedlock equal in succession? Are adopted children equal in succession? Is a child conceived but not yet born at the time of entry of succession capable of inheriting? Are spouses and extra-marital (registered and unregistered) partners equal in succession? Are homosexual couples (married, registered and unregistered) equal in succession?

There is no discrimination of adults or child on the bases of gender or sex. Children are not discriminated regardless of the status: born in a marriage, outside the marriage, or adopted.

3.2.2. Are legal persons capable of inheriting? If yes, on which basis?

The base of the legal person's inheritance is the Civil Code (Act V of 2013).
Yes. The Hungarian succession law is based on the principle „*ipso iure*" succession. Successor can be every natural or legal person or business organization without legal personality; the state can inherit, too.
The successional quality is independent from the legal capacity: even the *nasciturus*, provided that they born alive, and the legal person that is being under creation can be heirs; their capability to inherit depends on the time of the deceased's death. This capacity of a legal person is based on the Civil Code (Act V of 2013). Note, however, that according the Act CXXII of 2013 on conveyancing lands and forests, only human persons are capable to acquire ownership of lands and forests.

3.2.3. Is the institute of unworthiness of succession present in your legal system? If yes, explain the grounds for unworthiness.

Yes, it is regulated in the Act V of 2013,[97] but only in the case, if there's a valid will of the deceased, then the legal heir/heirs have the claim for compulsory share, but in the will the deceased can disinheritance her/his legal heir/heirs. There is no taxative list of grounds for the disinheritance.
Under Article 7:75, the descendants, spouse and parents of a testator shall be entitled to a compulsory share if such a person is a legal heir of the testator or would be one in the absence of a testamentary disposition at the time of the opening of the succession.
A person validly disinherited by a testator in his testamentary disposition shall be denied a compulsory share. Disinheritance shall be valid if the testamentary disposition expressly indicates the reason therefor.
Disinheritance can take place if the person entitled to a compulsory share[98]

- is unworthy of inheritance from the testator,
- has committed a serious crime to the injury of the testator,
- has attempted to take the life of the testator's spouse, domestic partner or his next of kin or has committed another serious crime to their injury,
- has seriously violated his legal obligation to support the testator,
- lives by immoral standards,
- has been sentenced to an executable term of imprisonment, and has not served his term,
- has failed to offer aid or assistance as it may be expected by the testator at a time of need.

The testator may disinherit a descendant of legal age of reasons of gross ingratitude the descendant has displayed toward the testator. A parent may be disinherited by the testator for wrongful conduct which would also serve ground for the termination of parental custody rights. A testator may disinherit their spouse because of a conduct seriously violating conjugal rights. Any person who is

[97] Article 7:75. – 7:79 of the Civil Code.
[98] Article 7:78 of the Civil Code.

debarred from succession for reason of disinheritance shall not be entitled to administer the inheritance of the person replacing him. The provisions pertaining to the termination of the parents' asset management right shall apply mutatis mutandis to the administration of such assets.
If the testator has condoned the reason for inheritance before making his/her testamentary disposition, the disinheritance shall be annulled and their heir shall be entitled to a compulsory share. If the testator has condoned the reason for disinheritance after making his/her testamentary disposition, the disinheritance shall become invalid even if the testamentary disposition is not revoked.

3.2.4. Who are the heirs *ex lege*? Are there different classes of heirs *ex lege*? If yes, is there priority in succession between different classes? Describe the relation between heirs within the same class of succession. How are the shares among them determined?

The rules applicable to intestacy succession are applied in the absence of a disposition of property upon death. By intestate succession the relatives (in *kinship groups*) and the surviving spouse or registered partner of the deceased inherit. Relatives that may inherit are descendants, relatives in the ascending or lateral lines.
Legal heirs in descendants category[99] starts with the children of the testator. All children inherit in equal shares. If a child is debarred from succession, its descendants succeed in substitution. Descendants of an excluded person succeed the share that their debarred ascendant would have inherited in equal shares among themselves.
If the deceased has no children or a spouse, or they are debarred from succession, the parents of the descendant succeed in equal shares.[100] If one of the parents has deceased, descendants of such parent succeed in accordance with the rules of substitution. In case of no descendant the other parent alone or his descendants, in accordance with the rules of substitution, succeed.
If there are no relatives in prior categories or if there are relatives but they are debarred, grandparents and grandparents' descendants inherit.[101] In the place of a grandparent debarred from succession, descendants of such grandparent succeed in accordance with the rules of substitution. In case a grandparent is debarred from succession and has no descendant, the spouse of such grandparent succeeds in his stead. In the event the grandparents' are deceases or are debarred of succession, deceased great-grandparents in equal shares.[102] In case no legal heir inherits in the above mentioned kinship groups, distant relatives of the deceased person become legal heirs in equal shares.[103]
A spouse in a valid marriage with a deceased is a legal heir.[104] Spouse may be debarred of succession if the spouses were separated and the conjugal community has not existed at the time of death, not there were reasonable expectations of their reconciliation. These rules apply *mutatis mutandis* to a succession of a registered partner of the testator.[105] Persons who have lived in actual conjugal community with the testator out of marriage or registered partnership are not entitled to intestate succession.
Specific rules apply for intestate inheritance by spouses and descendants in conjunction.[106] Surviving spouse has a right of usufruct, life estate, on the family dwelling used together with the testator. Usufruct includes furnishings and appliances as well. As for the inheritance of the estate, the spouse

[99] Article 7:55 of the Civil Code.
[100] Article 7:63 of the Civil Code.
[101] Article 7:63 of the Civil Code.
[102] Article 7:65 of the Civil Code.
[103] Article 7:66 of the Civil Code.
[104] Article 7:58 – 7:62 of the Civil Code.
[105] Sec. 3(1) of the Act regulating registered partnership Act XXIX of 2009.
[106] Article 7:58 of the Civil Code.

has the same size of the share that belongs to a child. In the course of the probate proceedings, the descendants and the spouse may stipulate an allocation agreement, whereas a spouse would receive a life estate for the entire estate. The spouse may request the redemption of his life estate, which is conducted in due consideration of the reasonable interests of the other descendants.
Specific rules apply for intestate inheritance by spouses and parents in conjunction.[107] If there are no heirs in the descendant's kinship line, the spouses and the parents would inherit. The surviving spouse has a right of ownership title on the family dwelling used together with the testator and half of the remaining part of the estate. The parents inherit their share in equal parts.
Should there be no heirs in line of descendant or parents the spouse inherits the entire estate.[108]
Adoption creates rights in respect of intestate succession among the adopted person and the adoptive parent and the relatives.[109] Adoptee is treated as blood descendants of the adoptive parent for the purposes of intestate succession. However, if the adoptee was adopted by a relative in the ascending line, a sibling, or a descendant of such relative in the ascending line, the adoptee also retains his legal right to inherit from his blood relatives.
"Lineal succession" relates to a special mode of intestate succession for certain part of his estate.[110] Its function is to preserve and return the property to the testator's family, and prevent it being taken by the spouse. These rules come to place only if there are no descendants. "Lineal heirs" are the parents of the deceased, the grandparents and distant ancestors of the deceased. The lineal nature of the property must be proven by the person who would inherit under this title.[111]
Assets belonging to a lineal property are deceased belongings: acquired from an ancestor by inheritance or gift, inherited or received as a gift from a sibling or a descendant of a sibling. Property excluded from lineal succession' comprises of gifts of ordinary value; property that no longer exists and furnishings and household accessories of ordinary value if a spouse survived the deceased.
Even if the lineal heirs inherit the ownership title of lineal property, surviving spouse of the deceased person is entitled to its life estate.
Hungarian law acknowledges the obligation to restore gifts if the heirs are descendants of the deceased person. Each heir is obliged to present and calculate the value of advancements he received from the testator during his lifetime. That value is added to the value of the estate. The total consolidated value is then divided proportionately among the heirs, pursuant their shares of intestate succession. [112]

3.2.5 Are the heirs liable for deceased's debts and under which conditions?

Yes. The principle of universal succession refers to the entire testator's rights and debts.

3.2.6 What is the manner of renouncing the succession rights?

If an heir does not wishes to inherit a statement to waive succession is given either in a written form and handed to the notary performing the probate, or the statement on waiver is given orally in front of the notary.

[107] Article 7:60 of the Civil Code.
[108] Article 7:61 of the Civil Code.
[109] Article 7:72, 73 of the Civil Code.
[110] Article 7:67 of the Civil Code.
[111] Article 7:68 of the Civil Code.
[112] Article 7:57(1) of the Civil Code.

3.3. Disposition of property upon death.

3.3.1. Testate succession.

3.3.1.1. Explain the conditions for testate succession.

Testate succession is regulated by Articles 7:10-7:24 of the Civil Code. Testators shall be entitled to freely dispose of their property, or a part thereof, at time of death by a will (freedom of testamentary disposition). An instrumental shall be recognized as a will if it contains the testator's disposition of his property to take effect after his death, and if it manifestly appears to have been made out by the testator. Disposition of property may be accomplished by means of a notarial will or written will that can also be a holographic will (these have to be written in a language that the testator understands), nuncupative wills are permissible in the cases specified in the Civil Code. This latter can be taken when the life of the testator is in exceptional danger that does not allow taking a written will. Married couples can compile their will in one document. The validity of this will is described by the Civil Code.[113]

3.3.1.2. Who has the testamentary capacity?

The testamentary capacity is similar to the legal capacity, with the difference, that even those whose legal capacity is limited have the testamentary capacity, but for the validity of their will has to be drawn in the form of the public (notary) will. Only the natural persons have the testamentary capacity.

3.3.1.3. What are the conditions and permissible contents of the Will?

Hungarian legal system acknowledges three types of wills, and each of them has different requirements regarding the conditions and permissible contents of a testament. They are described in detail below.

3.3.1.4. Describe the characteristics of Will in your legal system. What types of wills are recognized? Are they divided into public and private? If yes, what public authorities took part in making a Will?

Hungarian legal system acknowledges three types of wills: authentic wills, written private wills and oral wills.[114]

An authentic will is drafted before a public notary, in accordance with the provisions of the Act on public notaries applicable to notarial deeds.

There are different types of written private wills in Hungarian legal system. *T*he testator writes and signs the holographic *will* entirely by in his own hand. Allographic will is written by other persons than the testator, but it must be signed by the testator in the contemporaneous presence of two witnesses. It the testator has already signed such a will, he must give a declaration before two witnesses in their contemporaneous presence that the signature is his own. Allographic will must be signed by the witnesses indicating their capacity as such. Any typewritten wills is considered to be allographic, even if typed by the testator himself.

An allographic or holographic will signed by the testator may be deposited with a public notary. This type is known as private will deposited with a public notary. It may be deposited as an open document or sealed document.

Formal requirement for the validity of the will. Any type of the will is formally valid only if the date when it was drafted is clearly indicated in the deed itself. Additional rules apply to wills consisting of several separate sheets, for example a sequential page number, signature of the testator and witnesses on every sheet If the will is allographic, written in a language testator writes or speaks.

[113] Article 7:23 of the Civil Code.
[114] Article 7:13 of the Civil Code.

Oral wills (nuncupative wills) is an exceptional type of a will employed by the testator that found himself in an extraordinary life-threatening situation in which written will is not possible.[115] Testator may give an oral statement and express his will in the contemporaneous presence of two witnesses in a language understood by the witnesses. This will would become inoperative if in the period of thirty consecutive days following the oral will the testator had the opportunity to make a written will without any difficulty.
Spouses and registered partners[116] are allowed to make joint wills during the term of their conjugal community. Joint wills may take a form of an authentic will*;* holographic private will (one testator write it, spouse /registered partner handwrites a statement it is also his will), allographic will. Additional formal requirements apply for wills consisting of separate sheets.

3.3.1.5. Is there a (public) register of Wills established in your country? If yes, describe briefly the proceedings for registration and legal effects of registration.

Hungarian law established a national Register of Wills (*Végrendeletek Országos Nyilvántartása*). Only the wills that were drafted / modified / revoked before the public notary are enlisted to the Registry. Hence, the Registry would contain all of the authentic wills, and other types of wills and dispositions mortis causa that were drawn up by a notary public in an authentic instrument. These are: a private will deposited with a public notary, agreement as to succession if drawn up by a public notary in an authentic instrument, testamentary gift if drawn up by a notary public in an authentic instrument. The omission of such registration for any reason does not compromise the validity of the will.
In general terms the validity of the disposition is not contingent upon its entry in any official register.

3.3.2. Succession agreement (negotia mortis causa). Is there another way to dispose of property upon death other than the will? If yes, explain the conditions for and permissible contents of succession agreements.

An agreement on succession is a contract for pecuniary interest contracted among the testator and the other party named as a heir in exchange of maintenance, annuity or care.[117] Thereof the testator may nominate an heir of his entire estate or only its specific part. Testator may ask for a maintenance, annuity or care for himself or specify another third party.
The legal nature of an agreement on succession is twofold. It is a disposition of property upon death in respect of the contractual statement of the testator, whereas it a contractual stipulation in respect of the person providing maintenance, annuity or care.
Formal requirements for a validity of the wills *mutatis mutandis* apply for formal validity of an agreement on succession as well. An agreement on succession has to be in an authenticated form (authentic instrument by a notary public) or an allographic (with two witnesses).
Material validity of the agreement on succession is subject to a consent of the legal representative and the approval of the guardian authority if the testator does not have a full legal capacity. In concrete it is a situation where the testator is a minor or a person with limited or partially limited legal capacity.[118]

[115] Article 7:20 of the Civil Code.
[116] Article 7:23 of the Civil Code, Section 3(1) of the Act regulating registered partnerships.
[117] Article 7:48 of the Civil Code.
[118] Aricle 7:49(2) of the Civil Code.

3.3.3. Are conditions for validity of Wills and other dispositions of property upon death governed by general civil law rules or by specific SL rules?

The succession law rules are governed in the Family Book of the Civil Code; only some special limitations are in other Acts (for example the Act on the conveyance of lands and forests). Procedural matters are ruled in other Acts (for example the Act XXXVIII of 2010 on probate proceeding).
Oral wills are only regarded as valid if they were made under life-threatening conditions and the lack of an ability to write.[119]

3.3.4. Are succession interests of certain family member protected regardless of the deceased's disposition or other agreement? If so, who are those family members, against which dispositions and under what conditions?

The freedom of testamentary disposition extends to all the assets of the testator. He may freely dispose of his entire, or merely part of this property. Certain close relatives are in principle protected if a deceased would completely have left them out of inheritance. Hence, Hungarian law acknowledges a statutory arrangement of reserved share. Close relatives of the testator, i.e., a descendant, spouse and a parent may claim for a reserved share, but such a claim is subject to *contract* law. The period of limitation for this claim is five years. A descendant, spouse and a parent may claim for a reserved share and if granted it is enforced towards the heirs. However, these close relatives never become an heir nor they are entitled to *in rem* share of an estate.

3.3.5. Cross-border issues.

3.3.5.1. What are the experiences in application of the Succession Regulation 650/2012 in your country?

Several problematic aspects in the overall application/non application / misapplication of the Succession Regulation may be identified.
Hungarian notarial practice is in many cases ignoring the existence of the Regulation, hence it is not applied at all. In terms of probate proceedings several issues may be identified. In cross-border cases public notary is often lacking information on the entirety of the property of the deceased. As the substantive law requires that the "decree of release" lists all of the assets, in cross-border cases the issue is to identify all of them. The issue is problematic in relation to bank accounts held in other Member States. To accomplish the task the evidence regulation is employed, where the Court acquires the information from the foreign bank and forwards to the Hungarian notary. Since domestic rules apply to the issue which information is the bank obliged to reveal, sometimes the information is not provided to the court by the evidence regulation either. Another issue relates to safe deposit boxes, where sometimes the applicable general terms prevent even the bank to open it. Hungarian notary then often nominates one of the heirs as an "executor of the will" to get the information in compliance to Article 63 (2) c) of the 650/2012 Regulation.
There are possible constrains in terms of applicable foreign law and recognition of foreign legal institutes not known to Hungarian system. Another important issue related to effects of the European Certificate of Successions issued in another member state, but lacking conformity to national land registry rules. This issue has been eliminated by adapting the national land registry rules.
Establishing the habitual residence of the deceased has been reported as an issue for the practice. Diverging interpretations of the Member States may in a single case lead to parallel proceedings. The issue is even more problematic in the lack of any European uniform cross-border notification system

[119] Molnár, H., 2012.

or register of probates. Another side issue relates to taxation, which remained national. Unpredictable foreign regime may lead to legal insecurity for the heirs.[120]

3.3.5.2. Are there any problems with the scope of application? Are there any problems concerning the application?

Issues not reported to our knowledge.

3.3.5.3. How are the rules on jurisdiction applied? In particular, determining the habitual residence and applying the rules on prorogation of jurisdiction? Did the authorities in your country had experience with declining the jurisdiction under Article 6 or accepting jurisdiction based on Article 7?

Since main jurisdictional rule of the Regulation relies on a factual concept of habitual residence, its interpretation may affect the application of the jurisdictional and procedural rules of the regulation.
Lacking any definition of the term "habitual residence", interpretation of the concept may be different by different Member States. There are interesting reported cases where the habitual residence interpretation was decisive: a dual-citizen of Hungary and Austria had a bank account in both countries; an Austrian citizen with long duration life center in Hungary, but upon his death the Austrian authorities found the habitual residence was in Austria instead of Hungary, since his closest relative lived in Austria.[121]
Since no European cross-border notification system or register of probates is established, parallel procedures are possible. Authorities of more than one Member State (for example of the nationalities or habitual residence of the deceased) may be addressed to initiate a probate, and they do not know if there is already one initiated in another member state. The *lis pendens* rule is intended to prevent such a scenario, but in practice it does not function in event of lack of information.

3.3.5.4. Are there any problems with determining the applicable law? In particular, regarding the intestate succession and wills and succession agreements? What are the experiences with choosing the applicable law?

There are possible constrains in terms of applicable foreign law with legal institutes not known to Hungarian system. If such an institute appears, the Central District Court of Buda has exclusive competence to decide on its adaption or substitution.[122] Pursuant to this rule the institute not known to Hungarian law would be adapted to the closest equivalent institute under the domestic laws. The practice indicated possible problems in adaptation of the "fideicomissarische Substitution" under Austrian law, or a possibility of a testator to designate a long term will-executorship" under German law.

3.3.5.5. What issues arise regarding the recognition and enforcement? Has there been any public policy invoked or relied on by the parties or the court?

There are possible constrains in terms of recognition of foreign legal institutes not known to Hungarian system. If such an institute appears, the Central District Court of Buda has exclusive

[120] Fuglinszky, Á., Szeibert, O., Tőkey, B., 2018.
[121] Fuglinszky, Á. Szeibert, O., Tőkey, B., 2018, 1-4.
[122] Act LXXI of 2015 on adaption proceedings of Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council.

competence to decide on its adaption or substitution.[123] Pursuant to this rule the institute not known to Hungarian law would be adapted to the closest equivalent institute under the domestic laws. The practice indicated possible problems in adaptation of the notaries' right to act as estate-trustees in Austria. Since Hungarian notary does not have such a power, nor could such rights be registered in Hungarian land register, this legal title is adapted as "restraint on alienation and encumbrance" known to Hungarian system.[124]

Having in mind the universal nature of choice of law rules of the Successions regulation, public policy rules require special attention. The issue of public policy gets controversial in legal areas of substantially very diverse material rules. Succession law has traditionally been perceived as a legal area reflecting legal tradition of a country. Consequently, comparative succession law reveals different substantive solutions in many respects. Mere fact that foreign law is different in respect of: types of legal heirs; order of succession, different conditions to inherit / reasons for debarment, would not suffice to call upon for public policy. However, if foreign law would infringe certain values of Hungarian legal order, it may be invoked. Discriminatory foreign law may infringe fundamental values of Hungarian law. Hungarian rules on freedom of disposition of the property, or the testamentary disposition embodied in § 7:10 of the Hungarian Civil Code, might be jeopardized by foreign law that does not allow free disposition of property or allows it in a discriminatory way. If foreign succession rules discriminate heirs based on their sex (a male son gets more than a female), or child as an heir on the bases of marital or extra-marital birth, it would be considered as contrary to the Hungarian public policy.

3.3.5.6. How is issuing and relying on the Certificate of Succession operating in your country?

The problem occurred due to the fact that pursuant to the register of real estate, specifications of plots of land are essential for transferring or registering them. However, some of the Member States, particularly Germany, does not have a national rule obliging the authority issuing the Certificate of Succession to specify and list all of the plots in the mere Certificate. Since these specifications were missing, the national authorities had an issue in accepting them and transferring the real estate pursuant to a certificate, since that was contrary to their national registry law. In 2017 the German courts, and recently in 2018 the Austrian Supreme Court, have rejected the claims of the heirs asking the relevant authorities issuing the certificate to specify and list of the estates.[125]

German courts firmly stand on the requirements prescribed by the 650/2012 regulation. In terms of the content of the Certificate of Succession Art 68 of the 650/2012 Regulation the information's that form an obligatory part of the Certificate does not require the designation of the property. Hence, absence of this figure does not prevent a grant of incorporation on the basis of such a certificate. It is worth nothing that the national land registry rules of Hungary and Austria both ask for a particular and precise identification data of each piece of property/asset. Still, Austrian land registry is accepting the German certificate as a legal base of transfer of real estate since the Regulation has supremacy over the national rules.

Due to the lack of that specification and of the necessary identification data of the Certificate of Succession issues in Germany, the Hungarian land registration authorities could not register the ownership upon succession.[126] The Hungarian Act on Land Registration has been recently modified to meet the new challenges brought with the 650/2012 regulation. Registration of the change of ownership upon succession must be carried out even if the Certificate of Succession does not contain

[123] Act LXXI of 2015 on adaption proceedings of Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council.
[124] Fuglinszky, Á. Szeibert, O., Tőkey, B., 2018, 4.
[125] Heidenhain, S., 2019, 10-11.
[126] Fuglinszky, Á. Szeibert, O., Tőkey, B., 2018.

the estate identification data. So far this question was not a preliminary issue request before the CJEU.

3.3.5.7. Are there any national rules on international jurisdiction and applicable (besides the Succession Regulation) concerning the succession in your country?

Pursuant to the Act LXXI of 2015 on adaption proceedings of Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council, "The Central District Court of Buda" has the exclusive competence to decide on the adaption/substitution of the particular foreign legal institution that does not exist in Hungarian law.

Bibliography

Andersson, G., Thomson, E., Duntava, A., Life-table representations of family dynamics in the 21st century. Demographic research, vol. 37, 2017. 1081-1230;
Basedow, J., Rühl, G., Ferrari, F., Asensio, P.M., Encyclopedia of Private International Law, Hungary, Edward Elgar Publishing 2017;
Blagojević, A., Drinóczi, T., 'Constitutional dialogue. Protection of constitutions – case studies: Hungary and Croatia' in Drinóczi, T., Župan, M., Ercsey, Z., Vinković, M., (eds), Contemporary legal challenges: EU – Hungary – Croatia (Pécs - Osijek 2012) 225-286;
Bodzási, B., Az új Ptk. hatálybalépésének harmadik évfordulójára http://unipub.lib.uni-corvinus.hu/2868/1/FJ2017n1_BodzasiBalazs.pdf;
Boóc, Á., Észrevételek a magyar öröklési jog néhány aktuális problémájához https://jogaszkepzes.kormany.hu/admin/download/f/fc/32000/Tanulm%C3%A1nyk%C3%B6tet.pdf (20.5.2019);
Boros, Zs., Kőrös, E., Makai, A., Szeibert, O. (Szerk: Kőrös, A.): Polgári jog– Családjog. Az új PtK magyarázata III/VI. 2013;
Bradatan, C., Kulcsar, L., Related information Choosing between Marriage and Cohabitation: Women's First Union Patterns in Hungary. Journal of Comparative Family Studies, 39(4): 491-507;
Complex, Budapest, p 985–1031;
Császár, M., A házassági vagyonjogi szerződés nemzetközi magánjogi vonatkozásai – jogesetelemzés, in: Az európai jog és a nemzetközi magánjog aktuális kérdései, Győr, 2016. 31-45
Csehi Z., 'The Law of Succession in Hungary' in Anderson, M., Arroyo E., Amayuelas (ed), The Law of Succession: Testamentary Freedom: European Perspectives (CSIC Press 2011) 170;
Cseh-Szombathy, L., "Changes in demographic processes in Hungary," Demográfia English Edition, Hungarian Demographic Research Institute, vol. 48(5), 2003;
Csiky, O., Filó, E., (szerk.), Magyar családjog. HVG-ORAC, Budapest, 2003.
Csitei, B., A kitagadási okok tartalma, avagy észrevételek az új Ptk. öröklési jogi könyvéhez https://blszk.sze.hu/images/Dokumentumok/diskurzus/2014/2/csitei.pdf (20.5.2019);
Csöndes, M., Klasiček, D., The legal nature of the forced share under the Croatian and Hungarian law, in: Drinoczi T., Župan M., Ercsely Zs., Vinković M., (eds.): Contemporary legal challenges: EU – Hungary - Croatia. Faculty of Law in Pecs / Faculty of Law in Osijek, Osijek-Pécs, 2012;
Csűri, É., Házassági vagyonjog az új Ptk.-ban. Opten Kft., 2016.
Drinóczi, T., Constitutional Politics in Contemporary Hungary. Vienna Journal for International Constitutional Law vol. 10, 1/2016. 63-98;
Dupcsik, Cs., Tóth, O., Family systems and family values in twenty-first-century Hungary (2014) Family Systems and Family Values in Twenty-First-Century Hungary. In: Family and Social Change in Socialist and Post-Socialist Societies. Brill, 1-42;
Filó, E., Katonáné Pehr, E., Gyermeki jogok, szülői felelősség és gyermekvédelem. HVG-ORAC, Budapest, 2015;

Fuglinszky, Á., Hungarian law and practice of civil partnerships with special regard to same-sex couples. Cuadernos de Derecho Transnacional (Octubre 2017), Vol. 9, Nº 2, 278-313;
Fuglinszky, A., Szeibert, O., Tőkey, B., GoInEU: Summary of the meeting with Dr. Ádám Tóth (President of the Hungarian Chamber of Civil Law Notaries) and with Dr. Tibor Szőcs (Director of the Hungarian Notaries' Academic Research Institute) – on 5th January 2018, Budapest, https://eventi.nservizi.it/upload/192/altro/hungary_succreg_issues_2018_01_17_disc.pdf (20.5.2019);
Gárdos, I., A vagyontárgy és a vagyon fogalma a Ptk.-ban (GJ, 2018/11., 3-10. o.);
Gárdos, P., (2013) Öröklési jog, in: Vékás, L. (szerk.) A Polgári Törvénykönyv magyarázatokkal,
Gombos, K., Eljárásjogi harmonizációs törekvések az Európai Unióban, 121-131 http://acta.bibl.u-szeged.hu/49983/1/juridpol_forum_004_002_121-131.pdf (20.5.2019)
Gombos, K., Eljárásjogi harmonizációs törekvések az Európai Unióban;
Grad-Gyenge, A., Szerzői jog és házassági vagyonjog (CSJ, 2017/4., 1-7. o.);
halála után https://jogaszkepzes.kormany.hu/admin/download/f/fc/32000/Tanulm%C3%A1nyk%C3%B6tet.pdf
Hamza, G., Roman law and the development of Hungarian private law before the promulgation of the Civil Code of 1959. Fundamina (Pretoria) vol.20 n.1 Pretoria Jan. 2014. 383-393;
Hegedűs, A., Az élettárs öröklési jogi helyzete http://acta.bibl.u-szeged.hu/7328/1/juridpol_069_247-261.pdf (20.5.2019);
Hegedűs, A., Polgári Jog. Családjog. R.I.M.Á.K Kiadó., Szeged, 2017.
Heidenhain, S., New Austrian Supreme Court ruling on European Certificates of Succession.
Heka, L., Neki aspekti mađarskoga obiteljskog prava na temelju zakona iz 2014. godine. PRAVNI VJESNIK 31/2, 2015. 191-209;
Herczog, M., (szerk.) Kézikönyv a gyermekjogi egyezmény alkalmazásához. Család, Gyermek, Ifjúság Egyesület. 2009;
Hungary 2017 (2018) (Központi Statisztikai Hivatal, Budapest 2018) [Hungarian Statistical Office, Budapest 2018] http://www.ksh.hu/docs/hun/xftp/idoszaki/mo/mo2017.pdf (20.5.2019);
Jobbágyi, G., Személyi és családi jog. Szent István Társulat, Budapest, 2003;
Katonáné Pehr, E., Mindennapi Családjog, Változások sodrában – a családjogi eljárások nyitott kérdései https://ptk2013.hu/interjuk/mindennapi-csaladjogvaltozasok-sodraban-a-csaladjogi-eljarasok-nyitott-kerdesei/6263 (20.5.2019);
Kőrös A., A PTK. és a családjog kapcsolata – a gyakorló jogász szemével, Polgári Jogi Kodifikáció 1999;
Kőrös A., Alapelvek. In Kőrös András (ed), Családjog, Budapest, Complex, 2008;
Kőrös, A., (eds.): A családjog kézikönyve. 2007. HVG-ORAC, Budapest, 2007;
Kőrös, A., (eds.): Polgári Jog. Családjog. Az új Ptk. magyarázata III/VI. HVGORAC, Budapest, 2013.
Kőrös, A., A családjog jövője – I. rész (CSJ, 2013/3., 1-8. o.);
Kőrös, A., A családjog jövője – II. rész (CSJ, 2013/4., 1-8. o.);
Kövesné Kósa, Zs., Vagyoni helyzet bizonyításának nehézségei a vagyonmegosztási perekben https://ptk2013.hu/szakcikkek/kovesne-kosa-zsuzsanna-vagyoni-helyzet-bizonyitasanak-nehezsegei-a-vagyonmegosztasi-perekben/6016 (20.5.2019);
Központi Statisztikai Hivatal: Magyarország számokban 2017., 2018;
Kriston, E., Current questions of property relations between civil partners, MultiScience - XXXI. microCAD International Multidisciplinary Scientific Conference University of Miskolc, Hungary, DOI: 10.26649/musci.2017.105;
Lajos Vékás, Öröklési jog, Eötvös József Könyvkiadó 2013, Budapest);
Lakatos, J., Külföldön dolgozó magyarok, Magyarországon dolgozó külföldiek, 2015. https://www.ksh.hu/statszemle_archive/2015/2015_02/2015_02_093.pdf (20.5.2019);
Lakatos, J., Külföldön dolgozó magyarok, Magyarországon dolgozó külföldiek, p. 12-13; https://www.ksh.hu/statszemle_archive/2015/2015_02/2015_02_093.pdf (20.5.2019);
Legal News - Central- and Eastern Europe. February 2019;
Magyarország számokban, 2017. Központi Statisztikai Hivatal, 2018;
Marianna, A., Társasági jogi elemek a hagyatékban - avagy a társasági vagyonrész sorsa a tag

Mátyás, Cs., A házassági vagyonjogi szerződés nemzetközi magánjogi vonatkozásai – jogesetelemzés, in: Az európai jog és a nemzetközi magánjog aktuális kérdései, Győr, 2016. 31-45
Mol, Ch., Reasons for Regulating Informal Relationships: A comparison of nine European jurisdictions. Utrecht Law Review, Volume 12, Issue 2, 2016 | http://doi.org/10.18352/ulr.347 (20.5.2019)
Molnar, H, The position of the surviving spouse in the Hungarian law of succession. ELTE LAW Journal, 2/2012. 91;
Molnár, H., "The Law of Succession in the New Hungarian Civil Code", in Menyhárd, A., Veress E., (eds.) *New Civil Codes in Hungary and Romania*. Springer, vol. 63, 2017. 193-209;
Molnár, H., The Position of the Surviving Spouse in the Hungarian Law of Succession. ELTE LAWJOURNAL, 89-105;
Molnár, S., J., A házasság intézményének perspektívái – A köteléket, a tartalmat és az alanyi kört érő kihívások tükrében http://real-phd.mtak.hu/702/1/Moln%C3%A1r_Sarolta_Judit_dolgozatv.pdf (20.5.2019)
Monostori, J., Őri, P., Spéder, Zs. (eds.)(2015): Demographic Portrait of Hungary 2015. HDRI, Budapest: 9–26;
Murinkó, L., Spéder, Zs., "Marriage and cohabitation", in: Monostori, J. - Őri, P. - Spéder, Zs. (eds.)(2015): Demographic Portrait of Hungary 2015. HDRI, Budapest. 9–26;
Nizsalovszky, E., A család jogi rendjének alapjai. Akadémia Kiadó, Budapest, 1963. 5. PAP Tibor: Magyar családjog. Tankönyvkiadó Vállalat, Budapest, 1982.
Orosz, Á., Változások az öröklési jogban (JK, 2013/6., 24-26. o.)
Osztovits, A., (szerk.): A Polgári Törvénykönyvről szóló 2013. évi V. törvény és a kapcsolódó jogszabályok nagykommentárja. Opten Kft. 2014.
Raffai, K., The New Hungarian Private International Law Act – a Wind of Change. Acta Univ. Sapientiae, Legal Studies, 6, 1 (2017) 119–133.
Rešetar, B., Király, L., Differences and Similarities in Regulations of the Hungarian and Croatian system of Matrimonial Property, in Drinoczi T., Župan M., Ercsely Zs., Vinković M., (eds.): Contemporary legal challenges: EU – Hungary - Croatia. Faculty of Law in Pecs / Faculty of Law in Osijek, Osijek-Pécs, 2012.
Sáriné Simkó, Á. (szerk.): Mediáció. Közvetítő eljárások. HVG-ORAC, Budapest, 2012.
Somfai, B., Kapcsolattartás, mint a gyermek emberi joga. HVG-ORAC, Budapest, 2009.
Suri, N., Elhatárolási kérdések a brüsszeliia. Rendelet és az európai öröklési rendelet körében Pázmány Law Working Papers, 2018/07;
Szabados, T., The New Hungarian Private International Law Act: New Rules, New Questions, RabelsZ 82, 2018, 972–1003.
Szeibert, O., (szerk.): Család, gyermek, vagyon. HVG-ORAC, Budapest, 2012;
Szeibert, O., "Marriage and Cohabitation in the New Hungarian Civil Code—Answering the New Challenges", in Menyhárd, A., Veress E., (eds.) *New Civil Codes in Hungary and Romania*. Springer, vol. 63, 2017. 173-193;
Szeibert, O., Az élettársak és vagyoni viszonyaik. HVG-ORAC, Budapest, 2017;
Szeibert, O., Family Law Book as Fourth Book of the new Hungarian Civil Code. ICLR, 2013, Vol. 13, No. 2. 85-95;
Szeibert, O., Informal relationships. National report: Hungary, 2015. CEFL;
Szeibert, O., The Changing Concept of 'Family' and Challenges for Family Law in Hungary, in: Scherpe J.M. (ed), European Family Law: Volume II. Edward Elgar, 2016. 108-127;
Szeibert-Erdős, O., Same-sex partners in Hungary Cohabitation and registered partnership. Utrecht Law Review Volume 4, Issue 2 (June) 2008. 212-221;
Szörös, A., Közös végrendelet http://dieip.hu/wp-content/uploads/2013-3-08.pdf (20.5.2019);
Takács, T., Limiting Queer Reproduction in Hungary. Journal of International Women's Studies Vol. 20, No. 1 December 2018. 68-80;
Tattay, L., Az új Ptk öröklési jogi rendelkezései és a túlélő házastárs jogi helyzete, http://plwp.eu/docs/wp/2013/2013-06-Tattay.pdf (20.5.2019);

Töttős, Á., The Fight against Marriages of Convenience in the EU and in Hungary. Pécs Journal of International and European Law - 2015/II. 55-65;
Vékás, L., - Péter Gárdos, P., (szerk.), Kommentár a Polgári Törvénykönyvhöz. 1. kötet, Wolters Kluwer, Budapest, 2014;
Vékás, L., A Polgári Törvénykönyv magyarázatokkal. Complex Kiadó, Budapest, 2013;
Vékás, L., Egy új nemzetközi magánjogi törvény megalkotásának elvi kérdéseiről [On the Matters of Principle in the Legislative Procedure of the New Hungarian Private International Law Act]. Jogtudományi Közlöny 2015/6, 292–299;
Vékás, L., Egy új nemzetközi magánjogi törvény megalkotásának elvi kérdéseiről, Jogtudományi Közlöny 2015/6, 292–299;
Vékás, L., Egy új nemzetközi magánjogi törvény megalkotásának elvi kérdéseiről. Jogtudományi Közlöny 2015/6., 292–299;
Vékás, L., The codification of private law in Hungary in historical perspective, https://www.ajk.elte.hu/file/annales_2010_04_Vekas.pdf;
Vékás, L., The codification of private law in Hungary in historical perspective, 2010. https://www.ajk.elte.hu/file/annales_2010_04_Vekas.pdf (20.5.2019);
Vékás, L., Vörös, I., (szerk.) Tanulmányok az új Polgári Törvénykönyvhöz, 2014, Budapest;
Visegrádi, Á., Az örökös felelőssége a hagyatéki tartozásokért (MJ, 2015/7-8., 424-431. o.);
Völcsey, B., A házassági vagyonjogi szerződés és a fedezetelvonó szerződés kapcsolata (Családi Jog, 2018/4., 23-28. o.);
Weiss, E., Az új Polgári Törvénykönyv és a családjogi viszonyok szabályozása, Polgári Jogi Kodifikáció 2000, 2. 5;
Weiss, E., Szeibert-Erdős, O., Property relationship between spouses – National report: Hungary, 2008. CEFL;
Wopera, Zs., Az európai családjog gyakorlata. Wolter Kluver 2017, Budapest.

Links

Népszámlálás 2011. http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_16_2011.pdf (20.5.2019);
OECD (2016), Society at a Glance 2016, OECD Publishing, Paris; OECD Family Database http://www.oecd.org/els/family/database.htm (20.5.2019), 3/20/2019;
Ragadics, T., Marriage and Cohabitation in Recent Hungarian Society. Nova prisutnost 16, 2018/1, 89-99;
Spéder Zs., Az élettársi kapcsolat térhódítása Magyarországon és néhány szempont a demográfiai átalakulás értelmezéséhez, Demografia 2005., 48/3-4, 187-217. https://www.demografia.hu/kiadvanyokonline/index.php/demografia/article/viewFile/589/441 (20.5.2019);
Microcensus 2016 – 3. Demographic data http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1037733&p_temakor_kod=KSH&p_lang=EN (20.5.2019);
Microcensus 2016 – 2. Characteristics of the population and dwellings http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1032400&p_temakor_kod=KSH&p_lang=EN (20.5.2019);
Indicators of sustainable development for Hungary, 2016 http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1011329&p_temakor_kod=KSH&p_lang=EN (20.5.2019);
Women and men in Hungary, 2013 http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1011329&p_temakor_kod=KSH&p_lang=EN (20.5.2019);

Population census 2011 - Preliminary data http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1011329&p_temakor_kod=KSH&p_lang=EN (20.5.2019);
Daily time use of the population, 2010 (comprehensive data of the time use survey of 2009/2010) http://www.ksh.hu/apps/shop.kiadvany?p_kiadvany_id=1011329&p_temakor_kod=KSH&p_lang=EN (20.5.2019).