Which country's law applies?

Cyprus

1 Sources of the rules in force

1.1 National rules

Where a cross-border case is brought before court, the rules on which law is applicable in Cyprus are primarily those provided for under EU law, in particular Regulations (EC) No 593/2008 (Rome I) on the law applicable to contractual obligations and (EC) No 864/2007 (Rome II) on the law applicable to non-contractual obligations.

In other respects, the Cypriot courts are guided by their own case law, as there are no relevant national laws or encoded rules. In the absence of relevant Cypriot case law, the courts apply English common law under Article 29(1)(c) of the Courts Act (Law 14/60).

1.2 Multilateral international conventions

The Hague Convention of 1 July 1985 on the Law Applicable to trusts and on their recognition, as ratified by the Republic of Cyprus by virtue of Ratifying Act 15(III) of 2017.

1.3 Principal bilateral conventions

Not applicable.

2 Implementation of conflict of law rules

2.1 Obligation of the judge to apply conflict of law rules on his own initiative

The judge is not obliged to apply these rules on his own initiative. The issue may only be brought up by a party to the case, who has to successfully prove through evidence that the law of another state supersedes the law of Cyprus. If the court is not satisfied, the law of Cyprus shall apply.

As the above practice is a matter of evidence and procedure, it is not affected by the above-mentioned Regulations (EC) No 593/2008 and (EC) No 864/2007.

2.2 Renvoi

Regulations (EC) No 593/2008 and (EC) No 864/2007 do not permit the application of the rule of *renvoi.* In cases not covered by the Regulations, however, the rule of *renvoi* may be applied as follows:

The court hearing a case for which it is established that the law of another state should be applied must apply either only the internal national rules of that law or that law in its entirety, including the international rules applicable under that law.

The difficulty in the latter case arises from the fact that the rules on the law applicable under the legal system of the other state concerned may refer the judge to the law of Cyprus, which he must apply (*renvoi*). In that case, the court has two options: either to accept the *renvoi* rule and apply the law of Cyprus (*'partial renvoi'* theory), or to reject it and apply the law of the other state in its entirety (*'total renvoi'*).

2.3 Change of connecting factor

To prevent any problems that could arise from a change of connecting factor (e.g. the domicile, the place to which the movable property or trust has been transferred, etc.), the rule on applicable law is customarily used to determine the date on which the connecting factor is identified. By way of example, see Article 7 of the Hague Convention of 1 July 1985 on trusts.

2.4 Exceptions to the normal application of conflict rules

The law of another state should not be applied even where the rules on applicable law require that it be applied if its application is incompatible with public order in the Republic of Cyprus. Under case law, 'public order' includes the essential principles of justice and public morality and ethics (*Pilavachi & Co Ltd v. International Chemical Co Ltd (1965) 1 CLR 97).*

The law of another state should also not be applied in respect of duties, taxes and taxation.

2.5 Proof of foreign law

The rule established in the case ***Royal Bank of Scotland plc v Geodrill Co Ltd and Others (1993) 1 JSC 753,*** applies, which held that a party which argues that a foreign law is applicable to its case must first make this claim and then provide expert evidence of it to the court's satisfaction. If the court is not satisfied by that evidence or none of the parties makes such a claim, the law of Cyprus shall apply.

3 Conflict of law rules

3.1 Contractual obligations and legal acts

Regulation (EC) No 593/2008 (Rome I) applies to all contractual obligations and legal acts where the question of which law should apply is raised.

3.2 Non-contractual obligations

Regulation (EC) No 864/2007 (Rome II) applies in most cases, the general rule of which is that the law applicable should be determined on the basis of where the damage occurs (*lex loci damni*) regardless of the country or countries in which the indirect consequences could occur. The Regulation also lays down specific rules on how to determine the applicable law for specific types of non-contractual obligations, such as unfair competition and product liability.

As regards trusts, the (Ratifying) Law Applicable to Trusts and on their Recognition of 2017 (Law 15(III)/2017), which ratified the Hague Convention of 1985,, applies. Under the Ratifying Law and the Convention, a trust should be governed by the law chosen by the trustee. Otherwise, a trust should be governed by the law with which it is most closely connected.

3.3 The personal status, its aspects relating to the civil status (name, domicile, capacity)

Surname

The Law on the relationship between parents and children (Law 216/90) applies to determining the surname. Under Law 216/90, the surname of a child is determined by a joint declaration made by its parents within three months of the date of birth. If they fail to make such a declaration, the child is given the father's surname. The mother's surname should be given to a child born outside wedlock unless, or until, the child is recognised by the father.

Domicile

A person's domicile is determined by Chapter 195 of the Wills and Succession Act, which provides that each person has at any given time either the domicile received at birth ('domicile of origin') or a domicile they have acquired or retained of their own accord ('domicile of choice').

In the case of a legitimate child born during its father's lifetime, the child's domicile of origin is the father's domicile as of its birth.

In the case of a child born outside wedlock, or a child born after the death of its father, the child's domicile of origin is the mother's domicile as of its birth.

Capacity

A person's capacity to marry is subject to the Marriage Act (Law 104(I)/2013), Article 14 of which provides that a person does not have the capacity to marry if he is under eighteen years of age or is, as of the date the marriage is contracted, unable to give consent due to a mental disorder or deficiency, or brain or other condition or disease, or substance addiction, that renders him unable to understand and be aware of what he is doing.

However, even if the couple concerned, or one of them, is under eighteen years of age, they are regarded as having the capacity to marry if they are at least sixteen years of age or if their guardians have consented in writing or there are serious reasons that justify the marriage. Where the above-mentioned consent is refused or there is no guardian, the question of whether a person has the capacity to marry should be settled by the family court of the district in which the person concerned resides.

As regards the capacity to carry out legal acts, Article 11 of Chapter 149 of the Contracts Act provides that a person has the capacity to enter into contracts if he is of sound mind and has not been deprived of that capacity by law. The law provides that a married person is not regarded as incapable of entering into contracts for the sole reason that is he is under eighteen years of age.

3.4 Establishment of parent-child relationship, including adoption

3.4.1 Establishment of parent-child relationship

The legal relationship between a patent and a child, including parental responsibility, maintenance and communication, is regulated by the law of Cyprus, in particular the Law on the relationship between parents and children (Law 216/90).

Regulation (EC) No 2201/2003 (Brussels IIa) and Regulation (EC) No 4/2009, as well as the Hague Convention of 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, also apply in respect of the matters they cover.

3.4.2 Adoption

Where adoption proceedings are conducted in the Cypriot courts, the law of Cyprus applies regardless of whether the adoption case is cross-border in nature.

3.5 Marriage, unmarried/cohabiting couples, partnerships, divorce, judicial separation, maintenance obligations

3.5.1 Marriage

Matters relating to contracting and dissolving a marriage are regulated in Cyprus by the Marriage Act of 2003 (Law 104(I)/2003). They are also subject to the UN Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, as ratified in the Republic of Cyprus by Law 16(III)/2003.

3.5.2 Unmarried/Cohabiting couples and partnerships

3.5.3 Divorce and judicial separation

Matters relating to divorce are governed by Article 111 of the Constitution and the Attempt at Reconciliation and Spiritual Dissolution of Marriage Act of 1990 (Law 22/1990) with regard to religious marriages and the Marriage Act (Law 104(I)/2003).

The Hague Convention on the Recognition of Divorces and Legal Separations of 1971, as ratified by the Republic of Cyprus by Law 14(III)1983, applies to matters relating to the recognition of divorce and legal separation.

3.5.4 Maintenance obligations

Maintenance obligations

Under the Matrimonial Property Act (Law 232/1991), as amended:

If the spouses cease to cohabit, the court may, at the request of a spouse, issue a maintenance order for the other spouse to pay a maintenance allowance to the applicant spouse.

The maintenance obligations between ex-spouses apply where either of them is unable to support himself/herself from his/her own income or property and:

(a) if, when the divorce is finalised or upon expiry of the time periods specified below, his/her age or state of health is such that he/she cannot take up or continue an occupation which would ensure that he/she could support him/herself;

(b) if he/she has care of a minor or adult child or other dependent who is unable to take care of himself/herself due to physical or mental disability, and the person making the claim is thereby prevented from finding suitable employment;

(c) he/she cannot find steady and appropriate employment or needs vocational training, for no more than three years from when the divorce is finalised;

(d) in any other case where the award of maintenance at the time the divorce is finalised is necessary for reasons of equity.

Maintenance may be denied or restricted for important reasons, especially if the marriage was short or if the spouse who might be entitled to maintenance is to blame for the divorce or cessation of the cohabitation or has voluntarily brought about his or her own poverty.

Also, entitlement to maintenance should end or the maintenance order should be modified accordingly where circumstances require.

Maintenance obligations for a minor child

Under the Law on the relationship between parents and children (Law 216/90), the maintenance obligations for a minor child rest upon the parents jointly in accordance with their financial means. The above parental obligation may be continued, by virtue of a decision and a judicial settlement, even after the child reaches adulthood, where this is justified by exceptional circumstances (e.g. the child is incapacitated or disabled or serves with the National Guard or attends courses at an educational establishment or vocational school).

A minor child's entitlement to maintenance from his/her parents still stands even he/she owns property.

3.6 Matrimonial property regimes

Article 13 of Law 232/1991 applies, the general rule of which is that marriage does not alter the spouses' autonomy with regard to property. However, Article 14 of the Law allows one spouse to claim the other's property in the event of the dissolution or annulment of the marriage, provided that the spouse making the claim has contributed towards the increase of the other spouse's property in any way whatsoever. The party making the claim may, through legal action, request that the part of the increase which resulted from his/her contribution be paid to him/her.

The contribution made by one spouse towards increasing the property of the other spouse is deemed to stand at one third of the increase, unless a lower or higher contribution is proved.

The increase in the spouses' property does not include what they acquired by virtue of gift, inheritance, bequest or other donation.

3.7 Wills and successions

Succession, and all matters relating to inheritance, except for the form used to draw up and revoke a will, are regulated by Regulation (EU) No 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

In accordance with Article 22 of the above Regulation, a person may choose as the law to govern his succession the law of the state whose nationality he possesses at the time of making the choice or at the time of death. The choice of law is made by an explicit declaration.

Where there is a will in place, the Hague Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions applies. In accordance with Article 1 of the Convention, a testamentary disposition shall be valid as regards form if its form complies with the internal law:

(a) of the place where the testator made it, or

(b) of a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or
(c) of a place in which the testator had his domicile or habitual residence either at the time when he made the disposition, or at the time of his death, or
(d) so far as immovables are concerned, of the place where they are situated.

3.8 Real property

Regulation (EC) No 593/2008 (Rome I), which provides that a contract is governed by the law chosen by the parties, applies to relationships creating obligations which are associated with immovable property. In the absence of choice, Article 4 of the Regulation applies, which explicitly specifies the applicable law in each case.

As regards contracts relating to rights *in rem,* in accordance with the case law of the courts of Cyprus, the court applies the jurisdiction of the country in which the immovable property is situated (*lex situs*).

3.9 Insolvency

The applicable law is determined by Regulation (EC) No 1346/2000 on insolvency proceedings. It is the law of the state within the territory of which such proceedings are opened.

Last update: 11/12/2023

The national language version of this page is maintained by the respective EJN contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. Neither the EJN nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.