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Which country's law applies?

Slovenia

1 Sources of the rules in force

1.1 National rules

The basic law setting out the general rules of private international law is the Private International Law and Procedure Act (*Zakon o mednarodnem zasebnem pravu in postopku*; abbreviated as ZMZPP, Official Gazette of the Republic of Slovenia (*Uradni list RS*) No 56/99). Specific conflict of laws are governed by laws on various topics (for example, Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (*Zakon o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju*; abbreviated as ZFPPIPP).

1.2 Multilateral international conventions

Conventions which are ratified and published in the Republic of Slovenia are directly applicable and prevail over national laws. The conflict of law rules are governed by Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), which covers Member States bound to amendments of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations and Regulation No 864/2007 (Rome II) of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II). The conflict of law rules are also contained in multilateral conventions adopted by the [Hague Convention](#) on international private law, to which the Republic of Slovenia is a signatory.

1.3 Principal bilateral conventions

The conflict of law rules are also contained in bilateral conventions on legal assistance concluded with Austria, Bulgaria, Czech Republic, France, Hungary, Mongolia, Poland, Romania, the Russian Federation and Slovakia. The list of conventions is available at the [webpages of the Ministry](#).

2 Implementation of conflict of law rules

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

A judge is bound by the law governing the conflict of laws but parties are free to agree which law they would like to govern their legal relationship. In such a case, the law chosen by the parties will apply. Furthermore, the law which would normally apply according to the Private International Law and Procedure Act, would not apply where, based on all the circumstances, it is clear that there is no significant connection to the law to be applied with the legal relationship at hand but there is a significantly closer connection with some other law.

2.2 Renvoi

The doctrine of renvoi is set out in Article 6 of the Private International Law and Procedure Act, which provides that where, in deciding which law to apply, the rules of a foreign State point to Slovenian law, then Slovenian law applies without taking into account Slovenian instructions as to which law is to apply. This provision does not apply where the parties choose the governing law.

2.3 Change of connecting factor

A specific choice of law rule governing changeable connecting factors usually also define the time in which such a rule is to apply. Certain connecting factors carry the time which is decisive in selecting governing law set out in the conflict of law rule (for example: nationality of a testator when drawing a will) while in other circumstances changes of the connecting circumstance may mean that the law of a different legal system applies. In cases of permanent relationships it is necessary to apply the principle of recognising already acquired rights.

2.4 Exceptions to the normal application of conflict rules

The law determined by the Private International Law and Procedure Act does not apply where the effect of its application would be contrary to Slovenian legal order. The public policy concept is a legal standard expressed through case law. In most cases it is based on the constitutional rules of the State, the fundamental principles of national laws and moral principles.

2.5 Proof of foreign law

A court or another competent authority determines upon own motion the content of the foreign law to be applied by using a notification of a foreign law of the ministry responsible for justice or examines its content by some other suitable method. Parties may submit a public or other document of a competent foreign authority or institution on the content of the foreign law. Where the content of the foreign law cannot be determined in a particular case, Slovenian law applies.

3 Conflict of law rules

3.1 Contractual obligations and legal acts

In relation to Member States, Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations is applicable in the Republic of Slovenia and supersedes national laws governing substantive law. For matters to which the Regulation does not apply, bilateral conventions apply where relevant. Where there are no bilateral conventions, the national law governing conflict of laws in contractual relationships (Private International Law and Procedure Act) applies.

General conflict of law rule:

The Private International Law and Procedure Act provides that the law chosen by contracting parties applies to their contract unless a law or an international convention dictates otherwise. The will of the parties concerning the choice of law may be expressly stated, or the contractual provisions or other circumstances may clearly point to a given law having been chosen. The validity of the contract is then examined according to the law chosen. Where the parties did not choose which law to apply, then the law which is most closely associated applies. Where the circumstances do not point to another law, the law of the State in which the party with the obligation to perform the essential elements of the contract has permanent residence or principal place of business applies.

The law of the State in which a worker habitually performs his or her work governs [employment agreements](#). By agreeing to the application of a different law in an employment contract, the parties may not exclude mandatory provisions on the protection of employees' rights contained in the law of the State which would have applied had the parties not chosen the other law.

A [consumer contract](#) is a contract for the transfer of goods, rights and/or services to a consumer. A consumer is a person who acquires goods, rights or services, predominately for personal or household use. A consumer contract does not include a transport contract or a contract for the provision of services to a consumer when that contract is fully performed outside the State in which the consumer has their permanent residence. Notwithstanding the provisions

of the Private International Law and Procedure Act, a consumer contract is governed by the law of the State in which the consumer resides, where the contract was concluded subject to an offer or an advertisement in that State, or when the consumer took the steps necessary to conclude the contract in that State, or where the consumer is a cocontracting party or their representative obtains the consumer's order in that State, or where the sales contract was concluded in another State, or the consumer gave the order in another State, or where travel was organised by a seller with the intention of promoting conclusion of such contracts.

In the scenarios above, the parties to the contract cannot agree on the application of a law that excludes the mandatory provisions on consumer protection rights that are applicable in the State in which the consumer has their permanent residence.

For contracts related to real estate, the law of the State in which the real estate is situated always applies.

Where the contracting parties did not agree otherwise, the general conflict of laws rule applies to the relationship between the contracting parties to also decide from what time onwards an acquirer of a movable object has a right to its products and fruits and to decide the time from which an acquirer accepted risks concerning the object.

Furthermore, where the contracting parties did not agree otherwise, the method of delivering the object and the measures necessary where delivery is refused is governed by the law of the state where the object was to be delivered.

Regarding the effect of an assignment of a claim or assumption of a debt: the legal status of any debtors or creditors not directly involved in the assignment or assumption is governed by the same law that governs the assignment or the assumption itself.

The law applicable to the main transaction applies to an auxiliary transaction unless decided otherwise.

The law of the state of the debtor's permanent residence or seat applies to a single-sided legal transaction.

3.2 Non-contractual obligations

With respect to non-contractual obligations not governed by an international convention or Regulation No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II), the conflicts of law rules provide that national law applies.

The Private International Law and Procedure Act provides that the law of the state where an act was committed applies to non-contractual obligations. The law of the state where the consequence arises applies where that law is more favourable to the victim, provided the victim should have or could have foreseen the place of the consequences. Where such a law does not have a close connection to the relationship but a connection with another law exists, then that other law applies.

Where an event for which liability for compensation arises occurred on a vessel at open sea or on an aeroplane, the applicable law is presumed to be the law of the State in which the vessel or the aeroplane is registered.

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

Where a national of the Republic of Slovenia is also a national of another State, that person is regarded as only a Slovenian national for the purposes of the Private International Law and Procedure Act. Where a person who is not a national of the Republic of Slovenia but is a national of two or more States, the law of the State in which that person has their permanent residence applies for the purposes of the Private International Law and Procedure Act. Where a person does not have a permanent residence in any of the States of which he or she is a national, the law of the State with which the person has their closest connection applies for the purposes of the Private International Law and Procedure Act.

Where a person does not have a nationality or his or her nationality cannot be determined, the law of the State of his or her permanent residence applies.

Where a person does not have a permanent residence or it cannot be determined, the law of the State of his or her temporary residence applies. Where it is not possible to determine even a temporary residence, Slovenian law applies.

The law of the State of which a person is a national applies to changing a personal name.

The law of the State of which a person is a national applies to a natural person's capacity to contract. A natural person who, according to the law of the State of which he or she is a national does not have capacity to contract is presumed to have that capacity if it has the capacity according to the law of the state where the obligation arose. Loss or restrictions of a natural person's capacity to contract is governed by the law of the State of which that person is a national.

3.4 Establishment of parent-child relationship, including adoption

3.4.1 Establishment of parent-child relationship

Appointing or terminating guardianship and relationships between a guardian and the person under guardianship (person in care) is governed by the law of the State of which the person in care is a national. Temporary healthcare measures issued against a foreign or stateless national in the Republic of Slovenia are governed by Slovenian law and remain in effect until a competent State decides concerning the measure or annuls it, as appropriate. This rule also applies to the protection of property of a foreign or stateless national that is situated in the Republic of Slovenia.

Relationships between parents and children are governed by the law of the State of which they are nationals. Where parents and children are nationals of different States, the law of the State in which they all have permanent residence applies. Where parents and children are nationals of different States and do not have a permanent residence in the same State, the law of the State of which the child is a national applies.

The procedure for acknowledging, determining and contesting paternity or maternity are governed by the law of the State of which the child is a national.

The obligation to provide maintenance to blood relatives, excluding parents to children, and the obligation to provide maintenance to relatives by affinity (i.e. non-blood relatives), is governed by the law of the State of which the person requesting sustenance is a national.

The process of legitimising a child is governed by the law of the State of which the parents are nationals or by the law of the State of the parent according to which the adoption is to be valid where the parents are not nationals of the same State. Agreeing to a legitimisation by a child, another person or a national body is governed by the law of the State of which the child is a national.

3.4.2 Adoption

Conditions for and termination of adoption are decided by the law of the State of which the adopter and adoptee are nationals. Where an adopter and adoptee are nationals of different States, conditions for and termination of adoption are governed jointly by the States of which they are nationals. Where spouses adopt together, the conditions for and termination of adoption are governed the law of the State of which the adoptee is a national and also of the States of which one and the other spouse is a national. The form of adoption is governed by the law of the State in which the adoption occurred. The effect of the adoption is governed by the law of the State of which the adopter and adoptee were nationals at the time of granting the adoption. Where an adopter and an adoptee are nationals of different States, the law of the State in which they have permanent residence applies. Where an adopter and adoptee are nationals of different States and do not have a permanent residence in the same State, the law of the State of which the adoptee is a national applies.

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

3.5.1 Marriage

The conditions for entering into a marriage are governed by the law of the State of which each person is a national at the time of entering into the marriage.

The form of marriage is governed by the law of the State in which the marriage was entered into. The invalidity of marriage is governed by the law according to which it was entered into by the rules of conflicts of laws described above.

3.5.2 Unmarried/Cohabiting couples and partnerships

The Private International Law and Procedure Act does not contain any special provisions concerning unmarried/cohabiting couples. However, given that the consequences of unmarried/cohabiting partnerships are the same as those of marriage, it could be that the provisions governing marriage would apply to unmarried/cohabiting partnerships as well.

Proprietary relationships between two people living in an unmarried/cohabiting partnership are governed by the law of the State of which they are nationals. Where persons are not of the same nationality, the law of the State in which they have common residence applies. For contractual proprietary relationships between people living in an unmarried/cohabiting partnership, the governing law is the law applicable to their proprietary relationship at the time of concluding the contract.

The Private International Law and Procedure Act does not contain any special provisions concerning registered same-sex partnerships and their conditions. However, given that the consequences of same-sex partnerships are the same as those of marriage, the same provisions governing marriage may apply.

3.5.3 Divorce and judicial separation

Divorce is governed by the law of the State of which both spouses are nationals at the time of filing for divorce. Where spouses are nationals of different States at the time of filing for divorce, the divorce is governed jointly by the States of which they are nationals. Where the divorce cannot take place based on the preceding rules, divorce is then governed by Slovenian law, if one of the spouses had his or her permanent residence in the Republic of Slovenia at the time of filing for divorce. Where one of the spouses is a Slovenian national but does not have a permanent residence in Slovenia and the divorce cannot take place based on the preceding rules, the divorce is then governed by Slovenian law.

The Private International Law and Procedure Act does not contain any special provisions concerning termination of same-sex partnerships. However, considering that the consequences of a same-sex partnership are the same as a marriage, the same provisions governing divorce may apply.

3.5.4 Maintenance obligations

Relationships between parents and children are governed by the law of the State of which they are nationals. Where parents and children are nationals of different States, the law of the State in which they all have permanent residence applies. Where parents and children are nationals of different States and do not have a permanent residence in the same State, the law of the State of which the child is a national applies.

3.6 Matrimonial property regimes

Personal and property regimes between spouses are governed by the law of the State of which they are nationals. Where spouses are nationals of different States, the law of the State in which they have permanent residence applies. Where spouses do not have the same nationality nor permanent residence in the same State, the law of the State in which they had their last joint residence applies. Where the applicable law cannot be determined under these rules, then the law with which they have the closest connection applies.

Contractual property regimes between spouses are governed by the law of the State which governed their personal and proprietary relationship at the time of concluding the contract. Where this law provides that spouses may choose a law to govern their proprietary agreements, the law they choose applies.

Where a marriage is voided or dissolved, the same conflict of laws rules that apply to personal and property regimes between spouses, apply to personal and joint property regimes.

3.7 Wills and successions

The law of the State of which a deceased was a national at the time of death governs inheritance. Testamentary capacity is governed by the law of the State of which the testator was a national at the time of executing the will.

The form of the will is valid if it is valid according to one of the following legal systems: the law of the State in which the will was drawn; the law of the State of which the testator was a national at the time of drawing the will or at the time of death; the law of the State in which a testator had his or her permanent residence at the time of drawing the will or at the time of death; Slovenian law; or the law of the State in which the real estate is situated with regard to real estate.

A form of a revocation of a will is valid if it is valid according to any of the laws according to which the drawing of the will would be valid, as explained.

3.8 Real property

For proprietary relationships and other rights on objects, the law of the state where the object is situated applies. For proprietary relationships concerning objects in transport, the law of the state of destination applies. For proprietary relationships concerning transportation vehicles, the law of the State in which these vehicles are located, unless Slovenian law states otherwise.

3.9 Insolvency

Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings applies directly in Slovenia to questions falling within its applicability and EU Member States. Where the Regulation does not apply, the governing law is the Slovenian national law, namely the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (*Zakon o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju*; abbreviated as ZFPPIPP, UL RS, ZFPPIPP-UPB7, No 63/2013).

In this Act, the chapter titled 'Insolvency proceedings with international element' contains general rules regarding insolvency proceedings with an international element, governs access of foreign creditors and administrators to a national court, and governs cooperation with foreign courts and foreign administrators. It also governs recognition of foreign insolvency proceedings and temporary measures, parallel measures due to insolvency, and the law to apply to the consequences of insolvency proceedings.

A national court that has jurisdiction over national insolvency proceedings, can decide on the recognition of a foreign procedure and cooperation with foreign courts. Local national courts competent to manage national insolvency proceedings are: 1. where a debtor who is a national legal entity or entrepreneur, is established in the Republic of Slovenia: the court in the territory where the debtor is established; 2. where a debtor who is a foreign person has a branch in the Republic of Slovenia: the court in the territory where the debtor's branch has its principal place of business; 3. in other cases: the Ljubljana District Court (Okrožno sodišče v Ljubljani).

Regarding the law governing the legal consequences of insolvency proceedings, the general rule is that the law of the State in which the proceedings are conducted applies, unless law provides differently for a particular case. There are rules on governing law in the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act concerning contracts that deal with the use of acquired real estate, as the law of the state in which the real estate is situated applies. Special rules on the law on rights registered in a register (law of the State whose authorisation is to manage the register) apply concerning the law to apply payment systems and financial markets (law of the State applied to such payment systems/financial markets), concerning the law to apply to offset contracts and buy-back contracts and the law governing employment contracts.

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