Kroatija

1 Sources of the rules in force

1.1 National rules

In the Republic of Croatia, private international law is governed by the Private International Law Act (*Zakon o međunarodnom privatnom pravu*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) No 101/17), which entered into force on 29 January 2019. The Private International Law Act addresses private law relations with an international dimension, the jurisdiction of Croatian courts and other authorities in these private law relations with an international dimension and the relevant rules of procedure, as well as the recognition and enforcement of foreign court judgments. The Private International Law Act is applied to private law relations with an international dimension unless they are already regulated by binding legal instruments of the European Union, international treaties in force in Croatia and other laws in force in Croatia.

1.2 Multilateral international conventions

Hague Convention of 1954 on Civil Procedure
Hague Convention of 1961 on the Conflicts of Laws relating to the form of Testamentary Dispositions
Hague Convention of 1971 on the Law applicable to Traffic Accidents
Hague Convention of 1973 on the Law applicable to Products Liability

1.3 Principal bilateral conventions

Based on the notification of succession, the Republic of Croatia became a party to a number of bilateral international treaties, such as legal assistance treaties, consular conventions, and trade and navigation treaties. Legal assistance treaties also containing rules on the resolution of conflicts of laws have been concluded with specific countries:
Convention of 1954 on Mutual Judicial Cooperation with Austria, Vienna, 16 December 1954:
Agreement of 1956 on Mutual Legal Assistance with Bulgaria, Sofia, 23 March 1956;
Treaty of 1964 on Settlement of Legal Relations in Civil, Family and Criminal Matters with the Czech Republic, Belgrade, 20 January 1964;
Convention of 1959 on the Mutual Recognition and Enforcement of Judgments with Greece, Athens, 18 June 1959;
Agreement of 1968 on Mutual Legal Assistance with Hungary.

2 Implementation of conflict of law rules

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

Courts use three methods to apply private international law to legal situations with an international dimension: conflict-of-law rules, overriding mandatory rules, and special substantive rules.

2.2 Renvoi

Article 9 of the Private International Law Act says that the application of the law of any state referred to in the Act means the application of the rules of law in force in that state (but not its rules on the choice of applicable law).

2.3 Change of connecting factor

A change of instruments is a phenomenon which occurs when the factual situation on which the connecting factor is based changes during a legal relationship, leading to a change of the applicable law. The same conflict-of-law rule applies, but the circumstances on which the connecting factor is based have changed. Such issues arise only where the choice of applicable law is determined by means of changeable rather than permanent connecting factors. Article 21 of the Private International Law Act provides for the acquisition or loss of a right *in rem* (property right) already established in a property arriving in another state to be governed by the law under which such right *in rem* has been acquired. The type and content of that right is subject to the applicable law of the state in which the property is located. If no right *in rem* has been acquired in the property being relocated from one state to another, the circumstances arising in the other state should also be acknowledged in the acquisition or termination of such right.

2.4 Exceptions to the normal application of conflict rules

It should be noted that the law applicable under the provisions of the Private International Law Act does not apply where all circumstances indicate that a private law relationship has only a minor connection with the law in question and is manifestly more closely related to another law. (Article 11)
The rules of [law] of a foreign state applicable under the provisions of the Private International Law Act do not apply if the effect of their application is manifestly contrary to the public policy of Croatia. (Article 12)
Notwithstanding other provisions of the Private International Law Act, a court may apply a provision of Croatian law which is regarded as crucial for safeguarding Croatia's public interest, such as its political, social and economic organisation, to such an extent that it is applicable to any situation falling within its scope, irrespective of the applicable law. Where the performance of an obligation is contrary, in whole or in part, to a provision of the law of a foreign state in which that obligation is to be performed, the court may recognise the effect of that provision. When deciding on the recognition of the effects of that provision, account should be taken of the nature, purpose and consequences of recognising or not recognising its effect. (Article 13)

2.5 Proof of foreign law

A court of law or other authority in Croatia determines the content of the law of a foreign state ex officio (automatically). The foreign law applies as interpreted in that state. The court or other Croatian authority may seek information about the content of the foreign law from the Ministry of Justice or other authority, as well as from expert witnesses or specialised institutions. Parties may submit public or private documents concerning the content of the foreign law. If the content of the foreign law cannot be determined by any of these methods, the Croatian law applies. (Art. 8)

3 Conflict of law rules

3.1 Contractual obligations and legal acts

The law governing contractual obligations is determined in accordance with Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations ('the Rome I Regulation') within its scope.
The law governing contractual obligations excluded from the scope of the Rome I Regulation (where the applicable law is not determined by another act or international treaty in force in Croatia) is determined under the provisions of the Rome I Regulation relating to such contractual obligations.

3.2 Non-contractual obligations

The law governing non-contractual obligations is determined in accordance with Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations ('the Rome II Regulation').

The law governing non-contractual obligations excluded from the scope of the Rome II Regulation (where the applicable law is not determined by another act or international treaty in force in Croatia) is determined under the provisions of the Rome II Regulation relating to such contractual obligations.

The law governing non-contractual obligations resulting from road traffic accidents is determined by the application of the Hague Convention of 4 May 1971 on the Law Applicable to Traffic Accidents.

The law applicable to the responsibility of manufacturers for defective products is determined by the application of the Hague Convention of 2 October 1973 on the Law Applicable to Products Liability.

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

The law governing the legal capacity and the capacity to act of a natural person is the law of the state of which that person is a citizen. Once acquired, the capacity to act is not lost by a change of nationality.

The law governing the personal name of a natural person is the law of the state of which that person is a citizen.

If a marriage is concluded in Croatia, the bride and groom may determine their surname in accordance with the law of the state of which one of them is a citizen or, if at least one of them has their habitual residence in Croatia, under Croatian law.

Legal representatives may determine the personal name of a child at a registry office, in accordance with the law of the state of which one of them is a citizen or, if at least one of them has their habitual residence in Croatia, under Croatian law

3.4 Establishment of parent-child relationship, including adoption

The law that applies to relations between parents and children is determined on the basis of the Hague Convention of [19 October] 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention).

The law that applies parental and child relations that fall outside the scope of the 1996 Hague Convention (where not determined by another act or international treaty in force in Croatia), is determined under the provisions of the 1996 Hague Convention governing such relations.

Determining or contesting maternity or paternity is governed by the law applicable at the time proceedings are initiated, either:

1. the law of the child's habitual residence; or
2. where it is in the child's best interests, the law of the state of which the child is a national or the law of the state of which the persons whose paternity or maternity is being determined or contested are nationals.

The validity of the recognition of maternity or paternity is governed by:

1. the law governing the child's nationality or habitual residence at the time of recognition; or
2. the law governing the nationality or habitual residence of a person who recognises maternity or paternity at the time of recognition.

3.4.1 Adoption

The law governing the prerequisites for adoption and termination of adoption is the law of the state of which the adopting and the adopted persons are nationals at the time.

If the adopting and the adopted persons are citizens of different states, the laws governing the prerequisites for adoption and its termination are cumulatively the laws of both states of which each is a national.

In the case of a joint adoption by two persons, in addition to being governed by the law of the state of the adopted person, the prerequisites for adoption and its termination are also subject to the law of the common nationality of the adopting persons. If they do not have the same nationality at the time, the law of the state in which they have their common habitual residence is to be applied. If they have no common habitual residence at the time either, the laws of the states of which both adopting persons are nationals are applicable.

The law governing the effect of adoption is the law of the common nationality of the adopting and the adopted persons at the time the adoption takes place. If they do not have the same nationality at that time, the law of the state in which they have their common habitual residence is to be applied. If they have no common habitual residence at that time either, the Croatian law is applicable if one of them is a Croatian national. If neither of the adopting persons nor the adopted person is a citizen of the Republic of Croatia, the applicable law is the law of the state of which the adopted person is a citizen.

By way of exception, where the adoption in the child's country of origin has no termination effect on the existing actual parent-child relationship, the adoption may be converted into an adoption with such effect if the parties, institutions and competent authorities, whose consent or authorisation is required for adoption, have given or are to give their consent for the purpose of such adoption and where such adoption is in the child's best interests.

If the application of the foreign law (based on the above) is contrary to the best interests of the adopted person, and if the adopted or the adopting person or persons have a manifestly closer connection with Croatia, the Croatian law applies.

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

3.5.1 Marriage

The law governing the prerequisites for marriage contracted in Croatia, in respect of each person, is the law of the state of which that person is a citizen at the time the marriage is contracted. A marriage will not be contracted if it is manifestly contrary to the public policy of Croatia.

The law governing the formal requirement of a marriage contracted in Croatia is the Croatian law.

A marriage contracted in a foreign state is recognised if contracted under the law of that state.

Where a marriage between persons of the same sex is contracted in a foreign state, it is recognised as a civil partnership if contracted under the law of the state in which it has been contracted.

The law governing the validity of a marriage is the law of the place of marriage.

The law governing divorce is the law chosen by the spouses. The spouses may choose one of the following laws:

1. the law of the state in which both have their habitual residence at the time they choose the applicable law; or
2. the law of the state in which they had their last common habitual residence if one of them still has their habitual residence in that state; or
3. the law of the state of which at least one of them is a citizen at the time they choose the applicable law; or
4. the Croatian law.

An agreement on the applicable law referred to in paragraph 1 of this article needs to be concluded in writing. It may be concluded or amended by the time divorce proceedings are initiated at the latest.

If the spouses have not chosen the applicable law (in accordance with Article 36 of the Private International Law Act), the law governing divorce is:

1. the law of the state in which both spouses have their habitual residence at the time divorce proceedings are initiated; alternatively
2. the law of the state in which they had their last common habitual residence if one of them still has their habitual residence in that state; alternatively
3. the law of the state of which they are both citizens at the time divorce proceedings are initiated; alternatively

4. the Croatian law.

3.5.2 Unmarried/Cohabiting couples and partnerships

The law governing the entry into and termination of a life (civil) partnership in Croatia, established by registration in the register of life partnerships, is the Croatian law.

A registered same-sex life partnership entered into in another state is recognised in Croatia if it has been established under the law of that state.

The law governing the establishment and termination of life partnerships is the law of the state to which a life partnership is or, if it has ceased to exist, was most closely connected.

3.5.3 Divorce and judicial separation

The law governing divorce is the law chosen by the spouses. The spouses may choose one of the following laws:

1. the law of the state in which both spouses have their habitual residence at the time they choose the applicable law; or
2. the law of the state in which they had their last common habitual residence if one of them still has their habitual residence in that state; or
3. the law of the state of which at least one of them is a citizen at the time they choose the applicable law; or
4. the Croatian law.

An agreement on the applicable law is to be concluded in writing. It may be concluded or amended by the time divorce proceedings are initiated at the latest.

If the spouses have not chosen the applicable law (in accordance with Article 36 of the Private International Law Act), the law governing divorce is:

1. the law of the state in which both spouses have their habitual residence at the time divorce proceedings are initiated; alternatively
2. the law of the state in which they had their last common habitual residence if one of them still has their habitual residence in that state; alternatively
3. the law of the state of which they are both citizens at the time divorce proceedings are initiated; alternatively
4. the Croatian law.

3.5.4 Maintenance obligations

The law governing maintenance obligations is determined by the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.

3.6 Matrimonial property regimes

The law applicable to property relationships between spouses is determined under Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

3.7 Wills and successions

The law governing succession is determined by application of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 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 (OJ L 201, 27.7.2012).

The law applicable to the form of testamentary dispositions is determined under the Hague Convention of 5 October 1961 on the Conflicts of Laws Relating to the form of Testamentary Dispositions.

3.8 Real property

The law governing rights *in rem* in properties is the law of the place in which the property in question is located.

3.9 Insolvency

Insolvencies or bankruptcies are subject to the application of Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

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