

**Act of the August 2, 1926
On the law applicable to international private relations
(Private international law).
Journal of Laws of 1926 no. 101, item 581**

I. PERSONS.

Art. 1.

- 1) The personal capacity of a natural person shall be assessed according to the laws of the state that person is a citizen of; if the citizenship cannot be established, according to the laws in force in the place of his/her residence.
- 2) A change of citizenship shall not result in losing the already reached age of majority.
- 3) The capacity of legal persons as well as of any companies and associations shall be assessed according to the law in force in the place of their registered office.

[tags: personal capacity, legal capacity, capacity to legal transactions]

Art. 2.

The merchant's personal capacity in his/her trade shall be assessed according to the law in force in the place of his/her business enterprise.

[tags: personal capacity, legal capacity, capacity to legal transactions, a merchant]

Art. 3.

If a foreigner, incapable under the law which he/she was personally subject to ((1)), entered into legal transaction in Poland ((9(1))), which is to have an effect in Poland, his/her capacity should be assessed under the law in force in Poland, if it is required by the security of fair trading.

[tags: personal capacity, legal capacity, capacity to legal transactions, a foreigner]

Declaration of disappearance or death

Art. 4.

- 1) The authorities and the law of the state to which the person was last subject to shall be competent to issue a declaration of disappearance or death.
- 2) If necessary, the Polish authorities may, under the laws in force in Poland, declare disappearance or death of a foreigner insofar as the effects within the territory of the Polish State are concerned.

[tags: a declaration of disappearance, a declaration of death, a foreigner]

II. FORM OF LEGAL TRANSACTION.

Art. 5.

A form of legal transaction shall be governed by the law having jurisdiction over the transaction itself; however, if the place where the transaction took place is not questionable, it shall be sufficient to comply with the law in force in that place.

[tags: a form of legal transaction]

III. PROPERTY RIGHTS.

Art. 6.

- 1) Possession and property rights shall be governed by the statute of the state where the subject matter thereof is located.
- 2) Usucaption, limitation and acquiescence shall be assessed according to the statute of the place where a movable was located at the time when the period expired. The acquirer of the right may also refer to the statute of the place where the movable was located at the time when the period commenced.
- 3) Acquisition, amendment or redemption of property rights on real estate located in Poland, as well as obligations arising from legal transactions under which such rights are to be acquired, amended or redeemed, in terms of their form and other terms of validity, shall be subject only to the law in force in Poland. However, it shall not apply to obligations arising from family relationships or succession rights.

[tags: property rights, possession, usucaption, limitation, acquiescence, property rights on real estate]

IV. OBLIGATIONS

Art. 7.

The parties may subject the obligation relationship to the nationality law, the law of the place of residence, the place where the legal transaction was entered into, the place of performance, or the law of the place where the subject matter thereof is located.

[tags: an obligation relationship, an identification of the applicable law, a choice of law]

Art. 8.

Unless the parties have identified the applicable law, the following rules shall apply:

- 1) in terms of contracts concluded on the market or public fairs – the law in force therein;
- 2) in case of real estate contracts – the law in force in the place where the real estate is located;
- 3) in case of contract concluded in retail trade – the law of the place where the seller's office is located;
- 4) in case of contracts for services, works, building construction and supplies concluded with the state – the law applicable to the representing authority's office, and in case of such contracts concluded with other public unions – the law in force in the place where their office is located;
- 5) in case of insurance contracts – the law in force in the place where the insurance undertaking's office is located; in case of contracts concluded with an agency of foreign undertaking with its office in Poland – the law in force in Poland;
- 6) in case of contracts concluded with public notaries, attorneys-at-law and other persons who perform professional activities, within the scope of these activities – the law of the place where these persons regularly conduct their profession;
- 7) in case of employment contracts concluded by commercial, industrial and mining entrepreneurs with their employees – the law of the place where the work is performed.

[tags: the applicable law in case of contractual obligations – general rules]

Art. 9.

- 1) In case of contracts not covered by (8(1–7)), the law of the state in which both parties reside at the time of the contract's conclusion shall apply. If the parties reside in different states and the obligation is unilateral, the law of the state in which the debtor resides shall apply; if the obligation is reciprocal – the law of the state in which the contract was concluded [shall apply]. The contract [concluded] between the

absentees shall be considered concluded in the place where the offeror received the acceptance of the offer.

2) The law in force in the place of the contract's conclusion shall also apply if the place of residence which is to determine the applicable law cannot be established.

3) If the debtor who entered into a unilateral transaction has not identified the applicable law on his/her own, the debtor shall be bound by the law of his/her place of residence, and if the place of residence cannot be established – the law of the place where the transaction was entered into.

4) The place of residence of the merchant in his/her trade shall be the office of the business enterprise; if the merchant has several business enterprises – the office of the business enterprise with which the relationship is related.

[tags: the applicable law in case of contractual obligations – general rules, a merchant]

Art. 10.

In all of the cases referred to above ((7) – (9)), the parties shall be bound by specific statutory prohibitions invalidating any legal acts that are contrary to them, which were issued in the states in which the debtor resides and is to perform the obligation.

[tags: overriding mandatory provisions, prohibited legal transactions]

Art. 11.

1) Any obligations arising from misdemeanours and other legal events shall be governed by the law of the state in which the factual situation leading to the obligation took place.

2) The same law shall determine, whether a person, limited in his/her personal capacity, shall be liable for the damage caused.

[tags: an obligation arising from misdemeanour or another legal event]

V. MARRIAGE RIGHTS.

Entering into marriage.

Art. 12.

1) The legal capability of entering into marriage shall be assessed for each party according to his/her nationality law.

2) Foreigners who, according to their nationality laws, could enter into marriage, shall not enter into marriage in Poland before the local authorities, if, according to the law

in force in Poland, there is an impediment preventing a similar marriage, which is irremovable by means of any dispensation because of:

- 1) kinship or affinity;
- 2) threatening spouse's life;
- 3) a previously concluded marriage;
- 4) a difference of religion, sacred orders and solemn religious profession.

[tags: entering into marriage, a legal capability of entering into marriage, a foreigner]

Art. 13.

- 1) The form of entering into marriage shall be governed by the law in force in the place of entering into marriage.
- 2) For the marriage entered into outside Poland to be valid, it shall be sufficient to comply with the form prescribed by the nationality laws of both spouses.

[tags: entering into marriage, the form of marriage, validity of the marriage]

Personal and property relations between spouses.

Art. 14.

- 1) The personal and property relations between spouses shall be governed by their nationality laws. If the spouses then belong to different states, their relations shall be assessed according to the law of the state which they recently belonged together to.
- 2) Each and every current nationality law of the spouses shall decide, whether during their marriage they could enter into a property settlement, dissolve or amend an existing settlement.
- 3) However, a change of citizenship shall not, by itself, impact the statutory matrimonial regime of the spouses, which shall still be governed by the nationality law of the husband at the time the marriage was entered into.

[tags: personal relations between spouses, property relations between spouses]

Art. 15.

Settlements on matrimonial regime as well as donations between spouses or fiancées shall be governed by the law of the state which the husband or fiancé belonged to at the time the agreement was entered into.

[tags: property relations between spouses, matrimonial regime, donations between spouses or fiancées]

Art. 16.

(14) and (15) shall not apply if the state, within the borders of which the spouses' real estate is located, requires that its own law be applied with regard to this real estate.

[tags: property relations between spouses, real estate owned by the spouse]

Divorce and separation from bed and board.

Art. 17.

1) The authorities and the law of the state, which the spouses are personally subject to at the time when the divorce or separation is requested, shall have jurisdiction over the divorce or separation from bed and board. If at that time the spouses are subject to the law of different states, the authorities and the law of the state which the spouses recently jointly belonged to shall have jurisdiction.

2) If the spouses changed their citizenship, the fact that preceded this change may give rise to divorce or separation only insofar as it justifies the divorce or the separation also according to the law applicable before this change.

3) For those spouses who have Polish citizenship or for whom Polish citizenship was the last citizenship they had jointly, the Polish authorities or the authorities of the state of their place of residence shall be competent; however, unless the authorities of a foreign state have applied the Polish law, their judgments shall neither be recognized nor enforced in the territory of the Republic of Poland.

4) If the state which the foreigners residing in Poland belong to, has not reserved exclusive jurisdiction, the Polish authorities shall decide upon their divorce and separation; and they assess the reasons according to the nationality law of the spouses. Even in the case of exclusivity reserved by a foreign state, the Polish authorities may temporarily allow foreigners residing in Poland to have a separate residence and define their maintenance obligations under the law in force in Poland.

[tags: personal relations between spouses, a divorce, a separation (from bed and board), a foreigner]

VI. RELATIONSHIP BETWEEN PARENTS AND CHILDREN.

Legitimate birth.

Art. 18.

1) The nationality law of the mother's husband at the time of the child's birth shall decide upon the legitimate birth of the child.

2) If then the husband had already been dead, the law of the deceased at the time of his death shall apply.

[tags: a legitimate child, a legitimate birth]

Parents and legitimate children.

Art. 19.

1) To the relationship between parents and legitimate children their nationality law shall be applicable.

2) If these laws differ, the law of the state which the parties recently were jointly subject to shall apply.

3) The rights of the parents and the child to the real estate owned by the child shall be assessed according to the laws of the state in which the real estate is located, if that state considers its law to be applicable.

4) The relationship of the parents to the married daughter shall be assessed according to the nationality statute of the daughter's husband, insofar as the rights of the parents, under the law applicable to them, are contrary to the rights of the husband, based on the law applicable to him.

[tags: relations between parents and legitimate children, real estate owned by a child, relations between parents and their married daughter]

Illegitimate children.

Art. 20.

The relationship of an illegitimate child to the mother shall be assessed according to the law of the state which the mother and the child belong to; and if the laws of the mother and the child were later different – according to their last joint law.

[tags: an illegitimate child]

Art. 21.

1) In order to establish illegitimate paternity, mutual rights and obligations of the father and the child, as well as of the father and the mother, the law of the state which the mother and the child were subject to at the time of the child's birth shall apply.

2) If at that time both the illegitimate father and the mother reside in Poland, the law in force in Poland shall apply, if it is more favourable for the child.

[tags: an illegitimate child]

Legitimation of illegitimate children.

Art. 22.

Legitimation of an illegitimate child shall be governed by the father's nationality law at the time of the legitimation, and if the father had already been dead – by the law at the time of his death.

[tags: an illegitimate child, a legitimation of the illegitimate child]

Adoption.

Art. 23.

The law of the state which the adopter belongs to shall be the law applicable to the adoption.

[tags: adoption]

VII. CUSTODY.

Art. 24.

The law and the nationality authorities of a person in need of legal custody (custody, guardianship, assistant, court adviser) shall be competent for all matters related to legal care.

[tags: guardianship, custody]

Art. 25.

The Polish custody authorities may entrust the authorities of a foreign state with the custody of a Polish citizen residing or having property in a foreign state, as long as the Polish citizen has sufficient personal or property protection in that state.

[tags: custody, a Polish citizen residing or having property in a foreign state]

Art. 26.

In case of foreigners in need of custody and residing or having property in Poland, the Polish authority shall issue, according to its own laws, any necessary permanent or temporary custody orders, unless the authorities of the foreign state do this to a

sufficient extent. The reasons and time limits for establishing and abolishing custody shall be assessed according to the foreigner's nationality statute.

[tags: custody, a foreigner residing or having property in Poland]

Art. 27.

The above articles ((24) – (26)) shall not apply to guardianship (custody) [to be established] for particular case.

[tags: guardianship or custody for particular case]

VIII. SUCCESSION LAW.

Art. 28.

1) The succession rights shall be governed by the law of the deceased at the time of his/her death.

2) The successors shall have the capacity to acquire the estate not only in accordance with the law applicable to succession rights, but also under their nationality law.

[tags: the applicable law in case of succession, capacity to acquire the estate]

Art. 29.

Last will dispositions and contracts on succession rights shall be governed by the nationality law of the deceased at the time of entering into these acts.

[tags: last will, contract on succession rights, testament]

Art. 30.

1) Property that the deceased cannot dispose of in the event of his/her death (fee tail estate) shall be governed by the law of the state which they are located in.

2) The same law shall apply to public law restrictions which the estate or any parts thereof are bound by.

[tags: fee tail estate, public law restrictions regarding estate]

Art. 31.

The property assessed as escheat by the deceased nationality law shall be governed as escheat by the law of the state which it is located in at the time of the deceased death.

As escheat shall be deemed property which, according to the nationality law of the deceased, in the absence of other successors, shall be inherited by the state or other legal persons.

[tags: escheat]

Estate left by Polish citizens.

Art. 32.

The succession proceedings as conducted in Poland shall include the estate of a Polish citizen, even if the property was located abroad.

[tags: scope of the succession proceedings]

Estate left by foreigners.

Art. 33.

The Polish authorities shall in principle restrict their activities to securing the estate left by a foreigner.

[tags: scope of the succession proceedings, a foreigner]

Art. 34.

However, at the request of a person residing in Poland or having Polish citizenship, and proving his/her succession rights, the authorities shall handle with the estate in Poland as if it was left by a Polish citizen. The deceased nationality law shall apply ((28)).

[tags: scope of the succession proceedings, a foreigner]

Art. 35.

1) The estate shall be released abroad Poland only once the claims and succession rights of Polish citizens, of foreigners residing in Poland or of the Polish Treasury have been satisfied or properly secured.

2) The release of the estate by the Polish authorities cannot be opposed by anyone who has not proved his/her rights under the applicable law.

[tags: scope of the succession proceedings, a foreigner]

IX. GENERAL PROVISIONS.

Renvoi.

Art. 36.

If the foreign nationality law indicated by these provisions as applicable, requires that the legal relationship be assessed according to a different law, that other law should be applied in Poland.

[tags: renvoi, reference to another law]

States with more than one legal system.

Art. 37.

When in a state the law of which this act indicated as applicable, several different civil laws apply, its internal law shall determine which of them shall be applied.

[tags: application of internal law in case of subnational conflict of laws]

Restriction on the application of foreign law.

Art. 38.

Provisions of foreign law shall have no legal force in Poland if they are contrary to the basic principles of the public policy binding in Poland or to good practices.

[tags: public policy, good practices]

Determination of the wording, content and features of foreign law.

Art. 39.

- 1) The court may request that the Minister of Justice provide a text of foreign laws or explain the foreign court practice.
- 2) Should it be impossible to determine the content of the foreign law or establish the fact deciding ultimately on the applicable law, the competent Polish authorities shall apply the law in force in Poland.

[tags: the text of foreign law, foreign court practice]

Retribution.

Art. 40.¹

(repealed).

[tags:]

Effective power.

Art. 41.

This act shall become effective 30 days following its announcement.

[tags: vacatio legis]

Implementation of the act.

Art. 42.

The implementation of this act shall be entrusted to the Ministers of: Justice, Internal Affairs, Foreign Affairs, and Religious Denominations and Public Enlightenment.

[tags: implementation of the act]

¹ Art. 40 repealed by Art. 4 of the Decree of January 14, 1936, on the protection of the interests of the Polish State and its citizens in international relations (Dz.U. 36.3.22) as of January 15, 1936.