

No. 9132

**HUNGARY
and
AUSTRIA**

**Treaty concerning matters of succession. Signed at Vienna,
on 9 April 1965**

Official texts: Hungarian and German.

Registered by Hungary on 6 June 1968.

**HONGRIE
et
AUTRICHE**

**Traité relatif aux questions de successions. Signé à Vienne,
le 9 avril 1965**

Textes officiels hongrois et allemand.

Enregistré par la Hongrie le 6 juin 1968.

[TRANSLATION — TRADUCTION]

No. 9132. TREATY¹ BETWEEN THE HUNGARIAN PEOPLE'S
REPUBLIC AND THE REPUBLIC OF AUSTRIA CON-
CERNING MATTERS OF SUCCESSION. SIGNED AT
VIENNA, ON 9 APRIL 1965

The Presidential Council of the Hungarian People's Republic and the Federal President of the Republic of Austria, desiring to regulate matters of succession between the two States, have agreed to conclude a treaty concerning matters of succession and have for that purpose appointed as their plenipotentiaries :

The Presidential Council of the Hungarian People's Republic :

Mr. János Péter, Minister for Foreign Affairs;

The Federal President of the Republic of Austria :

Dr. Bruno Kreisky, Federal Minister for Foreign Affairs;

Dr. Christian Broda, Federal Minister of Justice,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

PART I

GENERAL PROVISIONS

Article 1

SCOPE OF THE TREATY

This Treaty shall apply to matters relating to succession to the estates of Austrian nationals who had their last place of domicile in the Hungarian People's Republic or left property there and to matters relating to succession to the estates of Hungarian nationals who had their last place of domicile in the Republic of Austria or left property there.

Article 2

HUNGARIAN NOTARIES PUBLIC

Provisions of the following articles which relate to the courts of the Contracting States shall also apply to notaries public of the Hungarian People's Republic in so far as they act in matters of succession.

¹ Came into force on 26 September 1967, sixty days after the exchange of the instruments of ratification, which took place at Budapest on 28 July 1967, in accordance with article 19 (1).

Article 3

PRINCIPLE OF EQUALITY IN MATTERS OF SUCCESSION

(1) Nationals of one Contracting State shall not, in the other Contracting State, be placed in a less favourable position than nationals of the latter Contracting State in respect of the right to make wills, contracts of inheritance or testamentary gifts or to acquire property *mortis causa*.

(2) For the purposes of this Treaty, the term “will” means the institution of an heir or the disposition of property by legacy and the term “acquisition of property *mortis causa*” means the acquisition of property through inheritance, through a legacy or through entitlement to a compulsory portion.

Article 4

TESTAMENTARY CAPACITY; FORM OF WILLS

(1) The capacity to make a will and the question of lack of intent shall be determined according to the law of the Contracting State of which the testator was a national at the time of making the will.

(2) The admissibility of wills as regards type and content shall also be determined according to the law specified in paragraph (1); where, however, a national of one Contracting State has made a will according to the law of the other Contracting State, the law of the latter State shall apply in respect of any property of the estate situated in the territory of that State.

(3) A will made by a national of one Contracting State shall be valid in both Contracting States as regards its form if it conforms

(a) To the law of the State in which the will was made, or

(b) To the law of the Contracting State of which the testator was a national at the time of making the will or at the time of his death, or to the law of the State in which the testator had, at either of those times, his place of domicile or habitual residence; the question whether the testator was domiciled at a particular place shall be determined according to the law in force at that place.

(4) Paragraphs (1)-(3) shall also apply to the revocation of wills.

(5) Paragraphs (1) and (2) shall apply, *mutatis mutandis*, to contracts of inheritance and testamentary gifts.

Article 5

JURISDICTION IN MATTERS OF SUCCESSION TO IMMOVABLE PROPERTY

Proceedings in matters of succession to immovable property shall be within the jurisdiction of the courts of the Contracting State in whose territory the property is situated.

Article 6

JURISDICTION IN MATTERS OF SUCCESSION TO MOVABLE PROPERTY

(1) Proceedings in matters of succession to movable property situated in the territory of the Contracting States shall be within the jurisdiction of the courts of the Contracting State of which the decedent was a national at the time of his death.

(2) Proceedings in matters of succession shall, however, be within the jurisdiction of the courts of the Contracting State in whose territory the decedent had his last place of domicile if

- (a) Any heir, compulsory heir or legatee domiciled in the Contracting State in which the decedent had his place of domicile at the time of his death, or in a third State, files a petition within six months after the decedent's death for conduct of the succession proceedings in the said Contracting State, and
- (b) No other heir, compulsory heir or legatee raises an objection, within three months after being duly notified by the court, to the conduct of the succession proceedings in the said Contracting State.

(3) Proceedings in matters of succession shall also be within the jurisdiction of the courts of the Contracting State in whose territory the decedent had his last place of domicile if at the time of his death the decedent was regarded by each of the Contracting States as its national.

Article 7

JURISDICTION IN LITIGATION RELATING TO SUCCESSION

The settlement of contested claims to an inheritance, a compulsory portion or a legacy in respect of the estate of a national of one of the Contracting States shall be within the jurisdiction of the courts of the Contracting State entitled to conduct succession proceedings pursuant to article 5 or article 6, provided that the action is instituted prior to the conclusion of the succession proceedings.