

LAW OF 16 JULY 2004
HOLDING
THE CODE OF PRIVATE INTERNATIONAL LAW

English translation by:

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CHAPTER I - GENERAL PROVISIONS

SECTION 1. Preliminary provision

Art. 1. Referred Matter

The present statute deals with a matter as referred to in article 78 of the Constitution, with the exception of articles 5 up to 14, 23, §§1 and 2, 27§1 part 4 and §2, 31 §1, part 3, 32, 33, 36, 40, 42, 43, 59, 61, 66, 73, 77, 85, 86, 96, 97, 109, 118, 121, §4, 123, 126, §1, 134, 135, 136 and 139, 5° and 8°, that regulate a matter referred to in article 77 of the Constitution.

SECTION 2. Subject

Article 2. Subject

The present statute regulates in an international situation the jurisdiction of Belgian courts, the designation of the applicable law and the conditions for the effect in Belgium of foreign judgments and authentic instruments in civil and commercial matters without prejudice to the application of international treaties, the laws of the European Union or provisions of special statutes.

SECTION 3. Determination of nationality, domicile and residence

Art. 3. Nationality

§1. The issue whether a natural person has the nationality of a State is governed by the law of that State.

§2. The references in the present statute to the nationality of a natural person, who possesses two or more nationalities, refer to:

1° the Belgian nationality, if it is one of the nationalities;

2° in the other cases, the nationality of the State with which that natural person, taking all circumstances and notably his habitual residence into account, has the closest connections.

§3. The references in the present statute to the nationality of a natural person, who by law or international conventions binding Belgium has the quality of stateless person or refugee, are replaced by a reference to his habitual residence.

§4. The references in the present statute to the nationality of a natural person, whose nationality cannot be established, are replaced by a reference to his habitual residence.

Art. 4. Domicile and habitual residence

§1. For the purposes of the present statute, domicile means:

- 1° the place where a natural person has his main residence according to the civil register of the population, the register of foreigners or the “waiting register”;
- 2° the place in Belgium where a body with separate legal personality has its statutory seat.

§2. For the purpose of the present statute, habitual residence means:

- 1° the place where a natural person has established his main residence, even in the absence of registration and independent of a residence or establishment permit; in order to determine this place, the circumstances of personal or professional nature that show durable connections with that place or indicate the will to create such connections are taken into account.
- 2° the place where a body with separate legal personality has its main establishment;

§3. For the purposes of the present statute the main establishment of a body with separate legal entity is determined by taking into account primarily the place of administration, as well as the center of its business and activities, and in subsidiary order the statutory seat.

SECTION 4. Jurisdiction

Art. 5. International jurisdiction based on the domicile or habitual residence of the defendant

§1. Except when otherwise provided for by the present statute, the Belgian courts have jurisdiction if the defendant has his domicile or habitual residence in Belgium when the action is introduced.

In the event of multiple defendants, the Belgian courts will have jurisdiction if one of them has his domicile or habitual residence in Belgium, unless the action has been introduced solely to remove a defendant from the jurisdiction of his domicile or habitual residence abroad.

§2. The Belgian courts have also jurisdiction to hear actions relating to the exploitation of a secondary establishment of a body with separate legal entity, which has neither its domicile nor its habitual residence in Belgium, if the establishment is located in Belgium when the action is introduced.

Art. 6. Widening of international jurisdiction by agreement between the parties

§1. When parties, in a matter in which, according to Belgian law, they can freely dispose of their rights, validly agreed to confer jurisdiction on the Belgian courts or a Belgian court to hear the disputes, which have arisen or may arise in connection with a legal relationship, the latter courts or court shall have exclusive jurisdiction.

Except when otherwise provided for in the present statute, a Belgian court before which a defendant enters an appearance is competent to hear the action brought against the latter, unless the appearance has as its main purpose to contest such jurisdiction.

§2. In the cases described in §1, the court may however decline its jurisdiction when it appears from the combined circumstances that the dispute has no meaningful connection with Belgium.

Art. 7. Exclusion of international jurisdiction by agreement

When in a matter in which, according to Belgian law, the parties can freely dispose of their rights, the parties validly agreed to confer jurisdiction on foreign courts or on a foreign court to hear the disputes which have arisen or may arise in connection with a legal relationship; and the case is pending before a Belgian court, the latter must stay its proceedings, unless it is anticipated that the foreign judgment is not amenable to recognition and enforcement in Belgium or unless the Belgian courts have jurisdiction according to article 11. The Belgian courts must decline jurisdiction when the foreign decision can be recognized according to the present statute.

Art. 8. Actions on a warranty, intervention actions and counterclaims

A Belgian court has jurisdiction to hear an action on a warranty or an intervention action, if it has accepted its jurisdiction to hear the original action. The original action may however not be brought to remove the defendant, from the jurisdiction of the court that would normally have jurisdiction.

The court, with jurisdiction to hear an action, also has jurisdiction to hear the counterclaim arising from the fact or act on which the original action is based.

Art. 9. Related actions

Belgian courts, with jurisdiction to hear an action, also have jurisdiction to hear an action so closely related to it that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments if the actions were heard separately.

Art. 10. Provisional, protective and executory measures

In case of urgency, Belgian courts have jurisdiction to grant provisional, executory and protective measures with respect to persons present or property located in Belgium at the time the action was introduced, even if, under the present statute the Belgian courts would not have jurisdiction to adjudicate the merits.

Art. 11. Exceptional attribution of international jurisdiction

Notwithstanding the other provisions of the present statute, the Belgian courts will exceptionally have jurisdiction when the matter presents close connections with Belgium and proceedings abroad seem impossible or when it would be unreasonable to demand that the action be brought abroad.

Art. 12. Verification of international jurisdiction

The court seized verifies its international jurisdiction of its own motion.

Art. 13. Internal jurisdiction

When Belgian courts have jurisdiction by virtue of the present statute, the territorial jurisdiction of the court will be established according to the relevant provisions of the Code of Civil Procedure and special statutes, except in the case provided for in article 23.

In the absence of a provision that determines the territorial jurisdiction of the court, the latter will be established according to the provision of the present statute regarding the international jurisdiction. If these provisions do not allow designating the court that has territorial jurisdiction, the action may be brought before the court of the district of Brussels.

Art. 14. International *lis pendens*

When an action is pending before a foreign court and it is anticipated that the foreign decision shall be amenable to recognition or enforcement in Belgium, the Belgian court that is later seized of an action between the same parties, with the same object and cause of action, may stay its proceedings until the foreign decision has been rendered. The court takes into account the requirements of due process. The court declines jurisdiction when the foreign decision can be recognized by virtue of the present statute.

SECTION 5. Conflict of laws

Art. 15. Application of foreign law

§1. The judge establishes the content of the foreign law designated by the present statute. That law is applied in accordance with the interpretation given to it in the foreign country.

§2. The judge may require the cooperation of the parties if he cannot establish the content. When it is clear that the content of the foreign law cannot be established timely, Belgian law is applied.

Art. 16. *Renvoi*

Within the meaning of the present statute and unless special provisions state otherwise, the reference to the law of a State is to the legal rules of that State with the exclusion of its rules of private international law.

Art. 17. States with more than one legal system

§1. When the present statute refers to the law of a State with two or more legal systems, each system is considered to be the law of a State for the purposes of the designation of the applicable law.

§2. A reference to the law of the State of which a natural person has the nationality refers, within the sense of §1, to the legal system that is designated by the rules in force in that State, or in the absence of such rules, the legal system with which the natural person has the closest connections.

A reference to the law of a State with two or more legal systems, which are applicable to different categories of persons, relates within the meaning of §1 to the legal system that is designated by the rules in force in that State or, in the absence of such rules, to the legal system that has the closest connections with the legal relationship.

Art. 18. Evasion of the law

For the determination of the applicable law in a matter where parties may not freely dispose of their rights, facts and acts committed with the sole purpose to evade the application of the law designated by the present statute are not taken into account.

Art. 19. Exception clause

§1. By way of exception, the law designated by the present statute does not apply if from the combined circumstances it appears manifestly that the matter has only a very slight connection with the State of which the law was designated, but is very closely connected to another State. In such case, the law of that other State will be applied.

When applying §1 special consideration is given to the need of predictability of the applicable law and to the circumstance that the relevant legal relationship was validly established in accordance with the private international law of the States with which the legal relationship was connected when it was created.

§2. Paragraph 1 does not apply if parties made a choice of law in accordance with the provisions of the present statute, or if the designation of the applicable law is based on its content.

Art. 20. Mandatory rules

The provisions of the present statute do not prejudice the application of the Belgian mandatory or public policy provisions, which, by virtue of the law or their particular purpose, are aimed to govern the international situation irrespective of the law designated by the conflict rules.

When the law of a State applies by virtue of the present statute, effect may be given to the mandatory or public policy provisions of the law of another State with which the situation has a close connection, if and in so far as, under the law of the latter State, those rules apply irrespective of the law otherwise applicable. In considering whether to give effect to these mandatory rules, regard shall be given to their nature and purpose and to the consequences of their application or their non-application.

Art. 21. Public policy exception

The application of a provision of the foreign law designated by the present statute is refused in so far as it would lead to a result that would be manifestly incompatible with public policy.

In determining this incompatibility, special consideration is given to the degree in which the situation is connected with the Belgian legal order and to the significance of the consequences produced by the application of the foreign law.

If a provision of the foreign law is not applied because of this incompatibility, another relevant provision of that law or, if required, of Belgian law applies.

SECTION 6. Effect of foreign judgments and foreign authentic instruments

Art. 22. Recognition and enforcement of foreign judgments

§1. A foreign judgment, which is enforceable in the State in which it was rendered, will be declared enforceable in whole or in part in Belgium, in accordance with the procedure set out in article 23.

A foreign judgment will be recognized in Belgium, in whole or in part, without there being a need for the application of the procedure set out in article 23.

If the recognition issue is brought incidentally before a Belgian court, the latter has jurisdiction to hear it.

The judgment may only be recognized or declared enforceable if it does not violate the conditions of article 25.

§2. Any interested party, and in matters regarding the status of natural persons also the advocate-general, can in accordance with the procedure set out in article 23 request that the judgment be recognized or declared enforceable, in whole or in part, or that it be declared not recognizable or not enforceable, in whole or in part.

§3. For the purpose of the present statute:

1° the term judgment means any decision rendered by an authority exercising judicial power;

2° the recognition gives legal power to the foreign judgment.

Art. 23. Jurisdiction and procedure for recognition and enforcement

§1. Except in the cases provided for in article 121, the court of first instance has jurisdiction to hear actions for recognition and enforcement of a foreign judgment. The family court has jurisdiction to hear actions for recognition and enforcement of a foreign judgment if they are concerned with a matter referred to in article 572bis of the Code of Civil Procedure.

§2. Except in the case provided for in article 31, the court with territorial jurisdiction, is the court of the domicile or habitual residence of the defendant; in the absence of such domicile or habitual residence, it is the court of the place of execution.

When an action for recognition cannot be introduced before the court referred to in the first part, the claimant may seize the judge of its domicile or residence in Belgium. In the absence of such domicile or residence in Belgium, the claimant can seize the court of the district of Brussels.

§3. The action is introduced and treated in accordance with the procedure referred to in articles 1025 to 1034 of the Code of Civil Procedure. The claimant has to elect domicile within the district of the court. The judge decides within a short delay.

§4. The foreign judgment subject or open to an ordinary recourse can be enforced provisionally. The judge may make the enforcement subject to the provision of a guarantee.

§5. Contrary to articles 1029 of the Code of Civil Procedure, only conservatory measures can be taken with respect to the property of the party against whom the enforcement is sought during the period provided for an appeal against the decision that allows enforcement, and until a decision with respect to the appeal is taken. The decision, which allows the enforcement, contains the permission to take these measures.

Art. 24. Documents to be submitted with a view to the recognition and enforcement

§1. The party that invokes the recognition of or seeks to declare a foreign judgment enforceable must produce the following documents:

1° a certified copy of the decision, which according to the law of the State where it was rendered meets the conditions required for the authenticity thereof;

2° if it concerns a decision by default, the original or a certified copy of the document establishing that the act that introduced the proceeding or the equivalent document was served or brought to the notice of the defaulting party in accordance with the law of the State where the decision was rendered;

3° any document on the basis of which it can be established that, according to the law of the State where the decision was rendered, the decision is enforceable and has been served or brought to notice.

§2. In the absence of the production of the documents mentioned in §1, the judge may impose a delay in which they are to be produced or accept equivalent documents or, if he believes to be sufficiently informed, grant an exemption.

Art. 25. Grounds for refusal of recognition and enforcement

§1. A foreign judgment shall not be recognized or declared enforceable if:

1° the result of the recognition or enforceability would be manifestly incompatible with public policy; upon determining the incompatibility with the public policy special consideration is given to the extent in which the situation is connected to the Belgian legal order and the seriousness of the consequences, which will be caused thereby.

2° the rights of the defense were violated;

3° in a matter in which parties cannot freely dispose of their rights, the judgment is only obtained to evade the application of the law designated by the present statute;

4° according to the law of the State where the judgment was rendered and without prejudice to article 23, §4, the judgment would still be subject to an ordinary recourse in the said State;

5° the judgment is irreconcilable with a Belgian judgment or an earlier foreign judgment that is amenable to recognition in Belgium;

6° the claim was brought abroad after a claim which is still pending between the same parties and with the same cause of action was brought in Belgium;

7° the Belgian courts had exclusive jurisdiction to hear the claim;

8° the jurisdiction of the foreign court was based exclusively on the presence of the defendant or the assets located in the state of such court, but without any direct relation with the dispute; or;

9° the recognition or enforceability would be contrary to the grounds for refusal provided for in articles 39, 57, 72, 95, 115 and 121.

§2. Under no circumstances will the foreign judgment be reviewed on the merits.

Art. 26. Foreign judgments as evidence

§1. A foreign judgment is evidence in Belgium of the findings of fact made by the judge if it meets the conditions required for the authenticity of judgments according to the law of the State where it was rendered.

The findings of fact made by the foreign judge are not taken into account to the extent that they would produce an effect manifestly incompatible with the public policy.

§2. Evidence to the contrary relating to facts established by the foreign judge can be brought by any legal means.

Art. 27. Recognition and executory force of foreign authentic instruments

§1. A foreign authentic instrument is recognized by any authority in Belgium without the need for any procedure if the validity is established in accordance with the law applicable by virtue of the present statute and more specifically with due regard of articles 18 and 21.

The instrument must satisfy the conditions necessary to establish authenticity under the law of the State where it was drawn up.

To the extent that is required, article 24 is applicable.

In the event that the authority refuses to recognize the validity of the instrument, an appeal may be lodged before the court of first instance without prejudice to article 121, in accordance with the procedure set out in article 23. The appeal is lodged with the family court if the foreign authentic instrument is concerned with a matter referred to in article 572bis of the Code of Civil Procedure.

§2. A foreign authentic instrument which has executory force in the State where the instrument was drawn up, will be declared enforceable in Belgium by the court of first instance, without prejudice to article 121 in accordance with the procedure set out in article 23 and after verification of the conditions provided for in §1. The request for a declaration of enforceability of a foreign authentic instrument is lodged with the family court if the instrument is concerned with a matter referred to in article 572bis of the Code of Civil Procedure.

§3. A judicial settlement, which has been approved by a foreign judge and is enforceable in the State where the settlement was approved, can be declared enforceable under the same conditions as authentic instruments.

Art. 28. Foreign authentic instruments as evidence

§1. A foreign authentic instrument is evidence in Belgium of the finding of facts made by the authority that has drawn up the instrument, if the authentic instrument cumulatively satisfies:

- 1° the conditions required by the present statute for the form of the instruments;
- 2° the conditions required, by the law of the State where the instrument was drawn up, for the authenticity thereof.

The finding of facts made by the foreign authority is not taken into account to the extent that they would produce an effect manifestly incompatible with the public policy.

§2. Evidence to the contrary relating to facts established by the foreign authority can be brought by any legal means.

Art. 29. Factual Effect of foreign judgments and authentic instruments

In Belgium consideration is given to the existence of a foreign judgment or authentic instrument without verification of the conditions required for recognition, enforcement or its value as evidence.

Art. 30. Legalization

§1. In order to be produced in Belgium a foreign judgment or authentic instrument has to be legalized in its entirety or as an excerpt, in original or copy.

The legalization confirms only the authenticity of the signature, the capacity in which the signatory acted and, as the case may be, the identity of the seal or stamp on the document.

- §2. The legalization is done:
- 1° by a Belgian diplomatic or consular agent who is accredited in the State where the judgment is rendered or where the instrument has been drawn up;
 - 2° in the absence thereof, by a diplomatic or consular agent of a foreign State who looks after the Belgian interests in that State;
 - 3° in the absence thereof, by the Minister of Foreign Affairs.
- §3. The King determines the specific rules of the legalization.

Art. 31. Mention and transcription of foreign judgments and authentic instruments with respect to status and capacity

§1. A foreign authentic instrument regarding the civil status can only be mentioned on the side of the instrument of civil status or be transcribed in the civil register or serve as basis of inscription in the population register, foreigners' register or a 'waiting register' after verification of the conditions set out in article 27, §1.

The mention or transcription of a foreign judgment can only take place after investigation of the conditions set out in articles 24 and 25 and, as the case may be, in articles 39, 57 and 72.

In the event that the keeper refuses to proceed to the mention or transcription, an appeal may be lodged before the family court of the district where the register is kept, in accordance with the procedure set out in article 23.

§2. The keeper of the instrument or register is charged with this investigation.

The Minister of Justice can draft guidelines with a view to the uniform application of the conditions referred to in §1.

In case of doubt upon determining the conditions referred to in §1, the keeper of the instrument or register can submit the instrument or judgment to the advocate-general for advice. If required, the advocate-general proceeds with an additional investigation.

§3. The King can open and organize a new register for the judgments and instruments that meet the conditions referred to in §1, when they relate to a Belgian citizen or a foreigner who resides in Belgium.

CHAPTER II - NATURAL PERSONS

SECTION 1. Status, capacity, parental authority and protection of the incapable

Art. 32. International jurisdiction with respect to status and capacity

In addition to the cases provided for in the general provisions of the present statute and except in matters where the present statute provides otherwise, the Belgian courts have jurisdiction to hear actions regarding the status or capacity of a person, if:

- 1° this person has his habitual residence in Belgium when the action is introduced; or

2° this person is Belgian when the action is introduced.

Art. 33. International jurisdiction with respect to parental authority, guardianship and protection of incapable persons

The Belgian courts have jurisdiction to hear actions regarding the parental authority or guardianship, the establishment of incapacity of an adult as well as the protection of incapable persons in the cases provided for by the general provisions of the present statute and article 32.

In addition to the cases provided for by the general provisions of the present statute and article 32, the Belgian courts have jurisdiction to hear actions regarding the administration of the assets of incapable persons if the action concerns assets located in Belgium.

The Belgian courts also have jurisdiction to hear actions regarding the exercise of the parental authority and the right to personal contact of the parents with children that are less than 18 years old, when they are seized with an action in annulment of the marriage, divorce or legal separation.

In urgent cases, the Belgian courts also have jurisdiction to take all measures required by the situation vis-à-vis a person who is present in Belgium.

Art. 34. Law applicable to status and capacity

§1. Except in matters where the present statute provides otherwise, the law of the State whose nationality that person has governs the status and capacity of a natural person.

Belgian law governs the capacity if the foreign law leads to the application of Belgian law.

The capacity acquired according to the law that is applicable by virtue of part 1 and 2 will not be lost as a result of a change in nationality.

§2. Incapacities concerning a specific legal relationship are governed by the law applicable to that legal relationship.

Art. 35. Law applicable to parental authority, guardianship and protection of incapable persons

§1. The parental authority and guardianship, the establishment of the incapacity of an adult and the protection of incapable persons or their assets are governed by the law of the State on the territory of which the person has his habitual residence when the facts giving rise to the determination of the parental authority, the guardianship, or the approval of protective measures occur. In case of change of the habitual residence, the determination of the parental authority or the guardianship to the advantage of a person who does not carry the responsibility yet, is governed by the law of the State of the new habitual residence.

The exercise of the parental authority or the guardianship is governed by the law of the State on the territory of which the child has its habitual residence when the exercise is invoked.

§2. In the event that the law designated by §1 does not provide the possibility to safeguard the protection required by the person or the assets, the protection is governed by the law of the State of which the person has the nationality.

Belgian law applies if it turns out to be materially or legally impossible to take the measures provided for by the applicable foreign law.

§ 3. If the person is younger than eighteen years the applicable law is, in derogation of the provisions of §§ 1 and 2, determined by the Hague Convention of 19 October 1996 on Jurisdiction, Applicable

Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

This is also the case if the person is younger than eighteen years and the international jurisdiction of the Belgian courts is based on the provisions of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

SECTION 1bis. Gender reassignment.

Art. 35bis. International jurisdiction on gender assignment.

A declaration of gender reassignment can be made in Belgium if the person making the declaration is has the Belgian nationality or if he has his main place of residence in Belgium according to the civil register of population or the register of foreigners.

Art. 35ter. The law applicable to gender reassignment.

The gender reassignment is governed by the law referred to in article 34, § 1, part one.

Provisions of the applicable law according to part one which prohibit gender reassignment are not applied.

SECTION 2. Surname and names

Art. 36. International jurisdiction with respect to surname and names

In addition to the cases provided for in the general provisions of the present statute, the Belgian courts have jurisdiction to hear actions to determine the surname and names of a natural person, if that natural person has the Belgian nationality or has his habitual residence in Belgium when the action is introduced.

The Belgian authorities also have jurisdiction to hear actions to change the names or surname of a natural person if the latter has the Belgian nationality when the action is introduced or if the latter has made a request on the basis of articles 15 and 21 of the Code of Belgian Nationality.

Art. 37. Law applicable to the determination of surname and names

§ 1. The determination of the surname and names of a natural person is governed by the law of the State of which that person has the nationality.

The consequences of a change in nationality on the surname and names of a natural person are governed by the law of the State of the new nationality.

§2. When a person has two or more nationalities, account is taken of the nationality the natural person chooses amongst them. Such a choice needs to be made explicitly in writing, dated and signed, at the time that the issue of the determination of the surname or names of such a person is submitted to the Belgian authorities for the first time. Article 3 applies in case of disagreement or in the absence of a choice.

Art. 38. Law applicable to the change of surname and names

The change of surname or names of a natural person by voluntary act or by operation of law is governed by the law of the State of that person's nationality at the time the change is made. The voluntary change of surname or name in the context of the acquisition of the Belgian nationality, as mentioned in articles 11bis, 15 and 21 of the Code of Belgian Nationality, is governed by Belgian law.

When the law of the State of the nationality of one of the spouses permits him to choose a name on the occasion of the marriage, the officer of the civil service mentions this name on the marriage deed.

Art. 39. Determination or change of surname and names in foreign countries

§1 A foreign judgment or administrative decision or an instrument drawn up by a foreign authority regarding the determination or change of the surname or names of a natural person will be recognized in Belgium if, in addition to the respect of the provisions referred to in article 25 for a judgement and in articles 18 and 21 in the other cases, :

- 1° the determination or change of the surname or names is in conformity with the law chosen by the person involved of which he has the nationality at the moment of the decision or instrument ; or
- 2° In case the judgement is rendered or the instrument is drawn up in a State on which territory the person has its habitual residence, the judgement or instrument is in conformity with the law chosen by the person involved of which he has the nationality or has his habitual residence at the moment of the decision or instrument

The person can make a choice regarding the applicable law referred to in part one before the Belgian authority at the moment that the foreign judgment or instrument regarding the surname or names is registered in the civil register of population, the consular register, the register of foreigners or the waiting register or at the moment of transcription in a register of civil status. The declaration needs to be made at the latest within five years following the date that the foreign judgement was rendered or the instrument regarding the determination or change of the surname or names was drawn up. The declaration is only possible if the law of the State where the judgement was rendered or the instrument was drawn up provides in such option to choose.

Within the meaning of this paragraph the reference to the law of a State is to the legal rules of that State with the inclusion of its rules of private international law.

§ 2 The appeal referred to in article 27, §1, part four is also applicable if the foreign administrative decision is not recognized.

SECTION 3. Absence

Art. 40. International jurisdiction with respect to absence

In addition to the cases provided for in the general provisions of the present statute, article 5 excluded, the Belgian courts have jurisdiction to hear actions to establish the absence or to determine the effects thereof, if:

- 1° the person who disappeared was a natural person who had the Belgian nationality or had his habitual residence in Belgium when he disappeared; or
- 2° the claim relates to assets of the absentee that are located in Belgium when the action is introduced.

Art. 41. Law applicable to absence

The absence is governed by the law of the State of which the natural person had the nationality when he disappeared, or if that law does not know this legal concept, by the law of the State on which the natural person had his habitual place of residence at the time of his disappearance.

The provisional administration of the assets of the absentee is governed by the law of the State on the territory of which the natural person had his habitual residence upon his disappearance or, if that law does not provide for such possibility, by Belgian law.

CHAPTER III - MARRIAGE AND MATRIMONIAL CAUSES

SECTION 1. International jurisdiction

Art. 42. International jurisdiction with respect to marriage and matrimonial causes

In addition to the cases provided for in the general provisions of the present statute, Belgian courts have jurisdiction to hear actions regarding the marriage or its effects, matrimonial property, divorce or legal separation, if:

- 1° in case of a joint application, either spouse was habitually resident in Belgium when the application was introduced;
- 2° not more than twelve months before the application was introduced, the last joint habitual residence of the spouses was in Belgium;
- 3° the spouse who introduces the application was habitually resident in Belgium since at least 12 months when the application was introduced;
- 4° both spouses had the Belgian nationality when the application was introduced.

Art. 43. Expansion of the jurisdiction with respect to marriage and divorce

The Belgian courts also have jurisdiction to hear any action:

- 1° to convert a legal separation rendered in Belgium into a divorce or to review a judgment with respect to the effects of the marriage, divorce or legal separation rendered in Belgium;
- 2° introduced by the advocate-general with respect to the validity of the marriage, if the latter was celebrated in Belgium or if one of the spouses has the Belgian nationality or is habitually resident in Belgium when the action was introduced.

Art. 44. Jurisdiction of the Belgian authorities to celebrate the marriage

The marriage can be celebrated in Belgium if one of the prospective spouses has the Belgian nationality or has his domicile in Belgium or has since more than three months his habitual residence in Belgium when the marriage is celebrated.

SECTION 2. Law applicable to the promise of marriage

Art. 45. Law applicable to the promise of marriage

The promise of marriage is governed:

- 1° by the law of the State where both prospective spouses are habitually resident at the time of the promise of marriage;
- 2° in the absence of habitual residence on the territory of the same State, by the law of the State of which both prospective spouses have the nationality at the time of the promise of marriage;
- 3° in other cases, by Belgian law.

SECTION 3. Law applicable to the marriage

Art. 46. Law applicable to the valid celebration of marriage

Subject to article 47, the conditions regarding the validity of the marriage are governed, for each spouse, by the law of the State of the spouse's nationality when the marriage is celebrated.

A provision of the law designated by part 1, which prohibits the marriage between two natural persons of the same sex, is not applicable if one of the natural persons has the nationality of a State of which the law allows such marriage or has his habitual residence on the territory of such State.

Art. 47. Law applicable to the formal validity of the marriage

§1. The formalities regarding the celebration of the marriage are governed by the law of the State on the territory of which the marriage is celebrated.

§2. That law determines if and according to which specific rules:

- 1° that State requires a declaration and publicity in advance of the marriage;
- 2° that State requires the determination and registration of the deed of marriage;
- 3° a marriage celebrated before a religious authority has legal effect;
- 4° a marriage can take place by proxy.

Art. 48. Law applicable to the effects of the marriage

§1. Subject to articles 49 up to 54, the effects of the marriage are governed:

- 1° by the law of the State on the territory of which both spouses have their habitual residence at the time the effects are invoked or if the invoked effect affects a legal act at the time the act took place;
- 2° in the absence of a habitual residence on the territory of the same State, by the law of the State of which both spouses have the nationality at the time the effects are invoked or if the invoked effect affects a legal act at the time the act took place;
- 3° in the other cases, by Belgian law.

- §2. The law designated in §1 determines notably:
- 1° the duties of cohabitation and fidelity;
 - 2° the contribution of the spouses to the charges of the marriage;
 - 3° the receipt of revenues by each spouse and their disposition;
 - 4° the admissibility of contracts and gifts between spouses and their revocation;
 - 5° the specific rules under which one spouse may represent the other;
 - 6° the validity of an act of one spouse that may be detrimental to the family's interests, vis-à-vis the other spouse, the modes of reparation of its harmful effects.
- §3. Contrary to paragraphs 1 and 2, the law of the State on the territory of which the immovable property that serves as principal family residence is located governs the exercise of the rights by one spouse with respect to that good or to the chattels furnishing it.

SECTION 4. Law applicable to the matrimonial property regime

Art. 49. Choice of law applicable to the matrimonial property regime

- §1. The matrimonial property regime is governed by the law chosen by the spouses.
- §2. The spouses can only designate one of the following legal systems:
- 1° the law of the State on the territory of which they will establish their first habitual residence after the celebration of the marriage;
 - 2° the law of the State on the territory of which one of the spouses has his habitual residence at the time of the choice;
 - 3° the law of the State of one spouse's nationality at the time of the choice.

Art. 50. Specific rules regarding the choice of law

- §1. The choice of law may be made before the marriage celebration or in the course of the marriage. It may modify a previous choice.
- §2. The choice must be in accordance with article 52, part 1. It shall relate to all the goods of the spouses.
- §3. The change of applicable law resulting from a choice by the spouses will only have effect for the future. The spouses may depart from this rule by agreement without adversely affecting third parties' rights.

Art. 51. Applicable law in the absence of choice of law

In the absence of a choice of law of the spouses, the matrimonial property regime is governed by:

- 1° the law of the State on the territory of which both spouses establish their first habitual residence after the celebration of the marriage;

- 2° in the absence of a habitual residence on the territory of a same State, by the law of the State of which both spouses have the nationality at the time of the celebration of the marriage;
- 3° in the other cases, by the law of the State on the territory of which the marriage was celebrated.

Art. 52. Law applicable to the formal validity of the choice of matrimonial property regime

The choice of the matrimonial property regime is valid as to the form if it satisfies the requirements of the law applicable to the matrimonial regime at the time a choice was made or the law of the State of the place where the choice was made. The choice has to be at least expressed in written form, dated and signed by both spouses.

The modification of the matrimonial property regime has to be made in accordance with formal requirements of the law of the State of the place where the modification is made.

Art. 53. Scope of the law applicable to the matrimonial property regime

§1. Without prejudice to article 52, the law applicable to the matrimonial property regime determines notably:

- 1° the validity of the consent to the choice of law;
- 2° the admissibility and validity of the marital agreement;
- 3° the possibility and the scope of the choice of a matrimonial property regime;
- 4° if and to which extent the spouses can change the matrimonial property regime, and whether the new regime has retroactive effect or whether the spouses can give it such effect;
- 5° the composition of the properties and the attribution of the administration powers;
- 6° the dissolution and the liquidation of the matrimonial property regime, as well as the distribution rules.

§2. The manner of composition and attribution of the shares are governed by the law of the State on the territory of which the assets are located during the distribution.

Art. 54. Protection of third parties

§1. The law applicable to the matrimonial property regime governs the question whether or not the matrimonial property regime is opposable to third parties.

However, if at the time a debt is created, the spouse and his third-party creditor have their habitual residence on the territory of the same State, the law of that State will be applicable, unless:

- 1° the publicity or registration requirements under the law applicable to the matrimonial property were fulfilled; or
- 2° the third party either knew, at the time the debt was created, the matrimonial property regime or was unaware of it solely through his own negligence, or
- 3° the publicity rules in relation to rights in property required under the law of the State on whose territory the immovable property is located were fulfilled.

§2. The law applicable to the matrimonial property regime determines if and to which extent a debt contracted by one of the spouses for the needs of the household or the education of the children engages the other.

However, if at the time a debt is created, the spouse and his third-party creditor have their habitual residence on the territory of the same State, the law of that State will apply.

SECTION 5. Law applicable to divorce and legal separation

Art. 55. Law applicable to divorce and legal separation

§1. Divorce and legal separation are governed:

- 1° by the law of the State where both spouses have their habitual residence when the action is introduced;
- 2° in the absence of a habitual residence on the territory of one State, by the law of the State on the territory of which the last joint habitual residence of the spouses was located if one of them has his habitual residence on the territory of that State when the action is introduced;
- 3° in the absence of the habitual residence of one of the spouses on the territory of the State where the last joint habitual residence was located, by the law of the State of which both spouses have the nationality when the action is introduced;
- 4° in other cases, by Belgian law.

§2. The spouses may however choose the law, which will apply to the divorce or the legal separation.

They can only designate one of the following laws:

- 1° the law of the State of both spouses' nationality when the action is introduced;
- 2° Belgian law.

The choice can at the latest be expressed at the time of the first appearance in the court in front of which the petition for divorce or legal separation has been made.

§3. The application of the law designated by virtue of §1 will be excluded to the extent that that law ignores the institution of divorce. In that case, the law determined by the subordinate criterion provided for in §1 is applied.

Art. 56. Scope of the law applicable to divorce and legal separation

The law applicable to divorce and legal separation determines notably:

- 1° the admissibility of legal separation;
- 2° the grounds of and conditions for divorce and legal separation or, in case of a joint application, the conditions with respect to consent, including the manner in which the latter should be expressed;

- 3° the obligation of the spouses to enter into an agreement with respect to the measures regarding the person, maintenance and property of the spouses and regarding the children for which they are responsible;
- 4° the dissolution of the matrimonial bond, or in case of legal separation, the extent of the relaxation of such bond.

Art. 57. Foreign divorce based on the will of the husband

§1. A foreign deed establishing the intent of the husband to dissolve the marriage without the wife having the same right cannot be recognized in Belgium.

§2. Such deed can however be recognized in Belgium after verifying whether the following cumulative conditions are satisfied:

- 1° the deed has been sanctioned by a judge in the State of origin,
- 2° neither of the spouses had at the time of the certification the nationality of a State of which the law does not know this manner of dissolution of the marriage;
- 3° neither of the spouses had at the time of the certification their habitual residence in a State of which the law does not know this manner of dissolution of the marriage;
- 4° the wife has accepted the dissolution in an unambiguous manner and without any coercion
- 5° none of the grounds of refusal provided for in article 25 prohibits the recognition.

CHAPTER IV - THE RELATIONSHIP OF CO-HABITATION

Art. 58. The concept of a relationship of "co-habitation"

For the purposes of the present statute, the term "relationship of co-habitation" refers to a situation of co-habitation that requires registration with a public authority and that does not create a bond equal to marriage.

Art. 59. International jurisdiction with respect of the relationship of co-habitation

Article 42 applies by analogy to any action regarding the relationship of co-habitation.

The registration of the conclusion of the relationship of co-habitation can only take place in Belgium if parties have at the time of the conclusion their joint habitual residence in Belgium.

The registration of the termination of the relationship of co-habitation can only take place in Belgium if the creation of the relationship has been registered in Belgium.

Art. 60. Law applicable to the relationship of co-habitation

The relationship of co-habitation is governed by the law of the State on the territory of which the relationship was first registered.

This law determines in especially the conditions of establishment of the relationship, the effects of the relationship for the assets of parties as well as the causes and conditions for termination of the relationship.

Article 54 applies by analogy. In the event that the relationship of co-habitation does not exist in the designated law, the law of the State on the territory of which the relationship is registered applies.

CHAPTER V - FILIATION AND ADOPTIVE DESCENT

SECTION.1. Filiation

Art. 61. International jurisdiction with respect to filiation

In addition to the cases provided for in the general provisions of the present statute, the Belgian courts have jurisdiction to hear any action regarding the establishment or contestation of a link of lineage , if:

- 1° the child has his habitual residence in Belgium when the action is introduced;
- 2° the person whose link of lineage is invoked or contested has his habitual residence in Belgium when the action is introduced; or
- 3° the child and the person whose link of lineage is invoked or contested have the Belgian nationality when the action is introduced.

Art. 62. Law applicable to filiation

§1. The establishment or the contestation of the link of lineage with a person is governed by the law of the State of the person's nationality upon the birth of the child or, if the establishment results from a voluntary act, at the time such act is carried out.

If the law applicable by virtue of this article does not require such consent, the requirements and conditions for the consent of the child as well as the manner in which such consent is expressed are governed by the law of the State on the territory of which the child has his habitual residence at the time of the consent.

§2. If the link of lineage is validly established according to the law applicable by virtue of the present statute vis-à-vis various persons, the law applicable to the filiation that results from the operation of the law on its own, will determine the consequence of a voluntary act of recognition. In case of a conflict between various filiations that result by operation of law from the law or that results from multiple acts of recognition, the law of the State with which the case has the closest connections amongst all designated legal regimes will apply.

Art. 63. Scope of the law applicable to filiation

The law applicable by virtue of article 62 determines notably:

- 1° who is authorized to establish or contest the filiation;
- 2° the burden of proof and the elements to be proven regarding the filiation, as well as the evaluation of the evidence;

- 3° the conditions and consequences of the possession of status;
- 4° the term for introducing the action.

Art. 64. Law applicable to the formal validity of the recognition

The declaration of acknowledgment is drawn up in accordance with the formal requirements prescribed by the law that by virtue of article 62, §1, part 1 is applicable to the filiation or by the law of the State on the territory of which the deed is drawn up.

Art. 65. Jurisdiction in relation to declarations acknowledging natural children

Declarations acknowledging natural children can be drawn up in Belgium, if:

- 1° the person who recognizes has the Belgian nationality or has its domicile or habitual residence in Belgium at the time the declaration is drawn up;
- 2° the child is born in Belgium; or
- 3° the child has its habitual residence in Belgium at the time the declaration is drawn up.

SECTION 2. Adoptive descent

Art. 66. International jurisdiction with respect to adoption

Contrary to the general provisions of the present statute, the Belgian courts have only jurisdiction to make an adoption order if the adopter, one of the adopters or the adoptee is Belgian or has its habitual residence in Belgium at the time the action is introduced.

The Belgian courts have jurisdiction to pronounce the conversion of an adoption that does not lead to the termination of the existing bond of filiation into a full adoption under the conditions as set out in part one, or if the adoption has been established in Belgium.

The Belgian courts have jurisdiction to revoke the adoption if the conditions referred to in part 1 are fulfilled or if the adoption order has been made in Belgium.

The Belgian courts have jurisdiction to pronounce the revision of the adoption under the conditions referred to in part 1 if the adoption is established in Belgium or if the judgment determining the adoption is recognized or declared enforceable in Belgium.

Art. 67. Law applicable to the conditions for adoption

Without prejudice to the application of article 357 of the Civil Code, the establishment of the adoptive descent is governed by the law of the State whose nationality the adopter or both adopters have at that time.

If the adopters do not have the nationality of one State, the establishment of the filiation by adoption is governed by the law of the State on the territory of which both have their habitual residence at that time, or in the absence of a habitual residence in the same State, by Belgian law.

However, the judge applies Belgian law if he considers the application of the foreign law clearly harmful to the higher interest of the adoptee and if the adoptee or the adopters have clear narrow links with Belgium.

Art. 68. Law applicable to the consent of the adoptee

Without prejudice to the application of article 358 of the Civil Code, the consent of the adoptee and his parents or legal representatives, as well as the manner in which the consent is expressed, are governed by the law of the State on the territory of which the adoptee has his habitual residence at the time immediately preceding the transfer for adoption, or in the absence of such transfer, at the time of the adoption.

However Belgian law governs the consent referred to in paragraph one if the law applicable by virtue of §1 does not provide for the necessity of such consent or ignores the institution of adoption.

Art. 69. Law applicable to the way in which an adoption is carried out

Belgian law governs the way in which an adoption is carried out in Belgium.

If a deed of adoption is drawn up abroad in accordance with the law of the State where it was drawn up and such law prescribes judicial proceedings, the proceedings can be initiated in Belgium under the procedure provided for by Belgian law.

Art. 70. Nature of the relation created by adoption

The law applicable by virtue of article 67 determines the nature of the bond created by the adoption and whether the adoptee ceases to be part of his original family.

Art. 71. Law applicable to the conversion, revocation and revision of the adoption

§1. Without prejudice to the application of article 359-2 of the Civil Code, the conversion of the adoption is governed by the law applicable by virtue of article 67 up to 69.

§2. The revocation of an adoption is governed by the law applicable by virtue of article 67 up to 69. The contact points are evaluated taking into account the extent that they have taken shape at the time of the establishment of the adoption.

§3. The revision of an adoption is governed by Belgian law.

Art. 72. Recognition of adoptions established abroad

Contrary to the provisions of the present statute, a foreign judgment or administrative decision holding the establishment, the conversion, the revocation or revision of an adoption will not be recognized in Belgium if the provisions of articles 365-1 up to 366-3 of the Civil Code are not taking into account and if a decision as referred to in article 367-1 of the same Code is not registered in accordance with article 367-2 of that Code.

CHAPTER VI - MAINTENANCE OBLIGATIONS

Art. 73. International jurisdiction in respect of maintenance obligations

§1. The jurisdiction of Belgian courts to hear any actions regarding a maintenance obligation resulting from family relationships, descent or lineage, including the maintenance obligations vis-à-vis children, irrespective of the marital status of their parents, is determined by Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

§2. In addition to the cases provided for in the general provisions of the present statute, Belgian courts have jurisdiction to hear actions regarding a maintenance obligation that are not referred to in paragraph one, if:

- 1° the maintenance creditor has his habitual residence in Belgium when the action is introduced;
or
- 2° the maintenance creditor and debtor are Belgian when the action is introduced.

Art. 74. Law applicable to the maintenance obligation

The law applicable to the maintenance obligation resulting from family relationships, descent or lineage, including the maintenance obligations vis-à-vis children, irrespective of the marital status of their parents, is determined by article 15 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, that refers to the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations referred to therein.

Art. 75. Law applicable to the maintenance obligation that do not flow from family relationships

§1. The maintenance obligation that is not referred to in article 74 is governed by the law of the State on the territory of which the maintenance creditor has his habitual residence. The law of the new State of habitual residence is applicable from the moment of the change in case there is a change in the habitual residence of the maintenance creditor.

§2. The maintenance obligation is governed by the law of the State of which the maintenance creditor and debtor have the nationality if the maintenance debtor has his habitual residence on the territory of that State, by derogation to paragraph one.

Art. 76. Scope of the law applicable to the maintenance obligation

§1. The law applicable to the maintenance obligation determines, notably:

- 1° to which extent and from whom the maintenance creditor can claim maintenance;
- 2° who can lodge a claim for maintenance and within which delay this must be done;
- 3° if and under which circumstances the maintenance can be modified;
- 4° the causes of the extinction of the right to maintenance;
- 5° the limits of the duty of the maintenance debtor if the person who gave maintenance to the maintenance creditor, claims repayment.

§2. The subrogation in the rights of the creditor by a third party that compensated him, is governed by the law applicable to the obligation of the third party to compensate the creditor, without prejudice to §1, 5°.

CHAPTER VII - SUCCESSION

Art. 77. International jurisdiction with respect to succession

§1. The jurisdiction of Belgian courts to hear actions regarding succession is determined by 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.

§2. The actions regarding succession that fall outside the scope of this Regulation are, by way of derogation from the general provisions of the present statute, governed by the jurisdiction rules laid down in articles 4 to 19 of the Regulation at issue.

Art. 78. Law applicable to succession

§1. The law applicable to succession is determined by 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.

§2. Each aspect of the succession that is excluded from the scope of this Regulation is governed by the law applicable according to its articles 20 to 38.

§3. The application of the Hague Convention on the conflicts of laws relating to the form of testamentary dispositions of 5th October 1961 is extended to those testamentary dispositions that are envisaged neither by the Regulation, nor by the Convention.

Art. 79. Choice of the law applicable to succession

[no longer in force]

Art. 80. Scope of the law applicable to succession

[no longer in force]

Art. 81. Specific rules regarding distribution

[no longer in force]

Art. 82. Administration and transmission of the succession

[no longer in force]

Art. 83. Formal validity of a will

[no longer in force]

Art. 84. Interpretation of the will

[no longer in force]

CHAPTER VIII - GOODS

SECTION 1. International jurisdiction

Art. 85. International jurisdiction with respect to rights in rem

In addition to the cases provided for in the general provisions of the present statute, the Belgian courts have jurisdiction to hear actions regarding rights in rem in respect of an asset, if the asset is located in Belgium or is deemed to be located there by virtue of article 87,§2 when the action is introduced or in case of an action regarding rights in a receivable, if the debtor has his domicile or habitual residence in Belgium when the action is introduced.

Art. 86. International jurisdiction with respect to intellectual property.

In addition to the cases provided for in the general provisions of the present statute, the Belgian courts have jurisdiction to hear actions regarding the protection of intellectual property rights, if the action relates to a protection limited to the Belgian territory.

Contrary to the general provisions of the present statute, the Belgian courts only have jurisdiction to hear actions regarding the registration and validity of the intellectual property rights that involve a deposit or registration, if the deposit and registration is applied for, has taken place or is considered to have taken place in the sense of an international convention in Belgium.

SECTION 2. Applicable law

Art. 87. Law applicable to rights in rem

§1. The rights in rem in respect of an asset are governed by the law of the State on the territory of which the asset is located when they are invoked.

The acquisition and loss of these rights is governed by the law of the State on the territory of which the assets are located when the actions or facts that are invoked as basis of the acquisition or the loss occur.

§2. If the asset referred to §1 consists of a patrimony formed by a whole of assets with a special purpose, like a business concern, it is deemed to be located on the territory of the State with which the patrimony has the closest connections.

§3. The creation of rights in rem in respect of a receivable as well as the effects of the transfer of the receivable on such rights is governed by the law of the State on territory of which the party that created the rights or that has transferred the rights had his habitual residence at the time of creation or transfer.

The effects of conventional subrogation on rights in rem is governed by the law of the State on the territory of which the party who subrogated has his habitual residence at the time of the transfer.

Art. 88. Law applicable to goods in transit

The rights in and the titles to goods in transit are governed by the law of the State of destination.

Art. 89. Law applicable to means of transportation

The rights in an aircraft, vessel, boat or other means of transportation which is registered in a public register are governed by the law of the State on the territory of which the registration took place.

Art. 90. Law applicable to cultural property

If an item, which a State considers as being included in its cultural heritage, has left the territory of that State in a way, which is considered to be illegitimate at the time of the exportation by the law of that State, the revindication by the State is governed by the law of that State, as it is applicable at that time, or at the choice of the latter, by the law of the State on the territory of which the item is located at the time of revindication.

Nevertheless, if the law of the State that considers the item part of its cultural heritage does not grant any protection to the possessor in good faith, the latter may invoke the protection, that is attributed to him by the law of the State on the territory of which the item is located at the time of revindication.

Art. 91. Law applicable to negotiable instruments

§1. The rights in a negotiable instrument, for which registration in a register is required by law, are governed by the law of the State on the territory of which the register in which the registration on the individual accounts of the holders of instruments appears, is located.

The register is presumed, except if proven otherwise, to be located in the place of the main establishment of the person that holds the individual accounts.

§2. The rights in an instrument which is not subject to registration as referred to in §1, are governed by the law of the State on the territory of which the security is located when they are invoked.

The acquisition and the loss of these rights are governed by the law of the State on the territory of which the instrument is located when the actions or facts that are invoked as basis of the acquisition or loss of those rights occur.

§3. The law of the State on the territory of which the instrument has been issued determines whether the instrument represents an asset or a movable value as well as whether the instrument is negotiable and which rights are linked to it.

Art. 92. Law applicable to stolen goods

The revindication of a stolen good is governed, at the choice of the original owner, by the law of the State on the territory of which the good was located upon its disappearance or by the law of the State on the territory of which the good is located at the time of revindication.

Nevertheless, if the law of the State on the territory of which the good was located upon its disappearance does not grant any protection to the possessor in good faith, the latter may invoke the protection, that is attributed to him by the law of the State on the territory of which the property is located at the time of revindication.

Art. 93. Law applicable to intellectual property

Intellectual property rights are governed by the law of the State for the territory of which the protection of the intellectual property is sought.

Nevertheless, the determination of the original owner of the industrial property right is governed by the law of the State with which the intellectual activity has the closest connections. If the activity takes place within a framework of contractual relations, that State is presumed to be the State of which the law applies to these contractual relations, until proof to the contrary is brought.

Art. 94. Scope of application of the law applicable to the regime of goods

- §1. The law applicable by virtue of this section determines notably:
- 1° whether an asset is movable or immovable;
 - 2° the existence, nature, content and scope of the rights in rem that can affect an asset, as well as of intellectual property rights;
 - 3° the holders of such rights;
 - 4° the possibility to dispose of such rights;
 - 5° the manner of constitution, modification, transfer and extinction of those rights;
 - 6° the effects of the rights in property vis-à-vis third parties;
- §2. With a view to the realization of an asset from a debtor, the law applicable by virtue of this section also establishes the existence of a right of priority and the hierarchy, as well as the distribution of the proceeds of the realization without prejudice to article 119.

SECTION 3. Effects of foreign judgments

Art. 95. Effect of judgments with respect to intellectual property rights

In addition to the grounds for refusal provided for in article 25, foreign judgments regarding the registration or validity of intellectual property rights which require a deposit or registration are not recognized in Belgium if the deposit or registration was requested or done or had to be done in Belgium according to an international convention.

CHAPTER IX - OBLIGATIONS

SECTION 1. International jurisdiction

Art. 96. International jurisdiction regarding contractual and non-contractual obligations

In addition to the cases provided for in the general provisions of the present statute, the Belgian courts have jurisdiction to hear actions with respect to obligations regarding:

- 1° a contractual obligation,
 - a) if the latter came into existence in Belgium; or
 - b) if the latter is or has to be executed in Belgium.
- 2° an obligation resulting from a tort,
 - a) if, the fact giving rise to the obligation occurred or is likely to occur entirely or partially in Belgium; or
 - b) if and to the extent that the damage occurred or is likely to occur in Belgium.
- 3° a quasi-contractual obligation, if the fact from which the obligation results took place in Belgium.

Art. 97. International jurisdiction with respect to consumer relationships and individual employment relationships

§1. In addition to the cases provided for in article 96 of the present statute, Belgian courts have jurisdiction to hear actions regarding an obligation referred to in article 96, brought by a natural person who acted with a purpose other than his professional activity, namely as consumer, against a party that has supplied or had to supply a good or service within the framework of its professional activities, if:

- 1° the consumer completed the actions required to execute or conclude the agreement in Belgium and had his habitual residence in Belgium at that time;
- 2° the good or service is supplied or should have been supplied to a consumer who had his habitual residence in Belgium upon placing the order, if the order was preceded by an offer or by publicity in Belgium.

§2. With respect to the individual labor relationship the contractual obligation is performed in Belgium in the sense of article 96 if the employee habitually carries out his duties in Belgium at the time of the dispute.

§3. An agreement that attributes international jurisdiction will only produce effects vis-à-vis the employee or consumer if entered into after the dispute has arisen.

SECTION 2. Applicable law

Art. 98. The application of international instruments concerning obligations

§1. The law applicable to contractual obligations is determined 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).

Except in the cases otherwise provided for by law, the contractual obligations who are excluded from the scope of application of that Regulation are governed by the law that is applicable according to the provisions of the Regulation.

§2. The law applicable to bills of exchange and promissory notes is determined by the Convention for the settlement of certain conflicts of laws in connection with bills of exchange and promissory notes concluded in Geneva on 7 June 1930.

§3. The law applicable to checks is determined by the Convention for the settlement of certain conflicts of laws in connection with checks concluded in Geneva on 19 March 1931.

§4. The law applicable to non-contractual obligations is determined by 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 (Rome II).

Non-contractual obligations that are excluded from the scope of the Regulation are governed by the law applicable according to this law.

§5. The law applicable to traffic accidents on the road is determined by the Hague Convention on the law applicable to traffic accidents of 4th May 1971.

Art. 99. The law applicable to obligations resulting from a tort

§1. Obligations resulting from a tort are governed:

- 1° by the law of the State on the territory of which the liable and the injured person have their habitual residence at the time that the tort occurs;
- 2° in the absence of a habitual residence on the territory of the same State, by the law of the State on the territory of which the fact giving rise to the damage and the damage itself occurred in their entirety or are likely to occur;
- 3° in all other cases, by the law of the State with which the relevant obligation has the closest connections.

§2. Obligations resulting from defamation or violation of privacy or personality rights are governed, at the choice of the claimant, by the law of the State on the territory of which the act leading to the damage or the damage occurred or is likely to occur, unless the person liable proves that he could not have foreseen the damage to occur in that State.

Art. 100. Accessory attachment

Contrary to article 99, obligations resulting from a tort, which have a close connection with an existing legal relationship between parties, are governed by the law, which is applicable to that relationship.

Art. 101. Choice of law applicable to the obligations resulting from a tort

Parties may, after the dispute has arisen, choose which law will be applicable to the obligations resulting from the tort, without prejudice to the Convention on the law applicable to road traffic accident concluded in The Hague on 4 May 1971. The choice has to be express and may not prejudice the rights of third parties.

Art. 102. Taking into account the safety and conduct rules

Notwithstanding the law applicable to an obligation resulting from a tort, consideration has to be given to the safety and conduct rules, which are in force at the place and time of the tort upon determining the liability.

Art. 103. Scope of application of the law applicable to the obligations resulting from a tort

The law applicable to obligations resulting from a tort determines notably:

- 1° the conditions for and the scope of the liability;
- 2° the liability for acts of third persons, objects or animals;
- 3° the grounds for exclusion of liability, as well as for limitation and division of liability;
- 4° the existence and nature of the damage which is taken into account for compensation;
- 5° the measures which the judge can take to prevent or stop the damage from occurring;
- 6° the specific rules regarding and the size of the compensation;
- 7° the persons that are entitled to compensation of the damage they incurred;

- 8° the extent to which the right to compensation of the injured person to compensation can be exercised by his heirs;
- 9° the limitation and time bar based on the expiration of a time period, including the date of commencement, expiration and suspension of the time period;
- 10° the burden of proof and the legal presumptions.

Art. 104. Law applicable to the quasi-contractual obligations

§1. The law of the State with which they have the closest connections governs quasi-contractual obligations. Except if proven otherwise, the obligation is presumed to have the closest connections with the law of the State on the territory of which the fact that results in the obligations has occurred. The obligation which results from the payment of someone else's debt is however presumed to have its closest connections with the law of the State of which the law governs the debt, until proof to the contrary is brought.

Upon assessing the closest connections, existing and envisaged relations between parties can be taken into account.

§2. Parties may, after the dispute has arisen, choose which law will apply to the relevant quasi-contractual relation. The choice has to be express and may not prejudice the rights of third parties.

Art. 105. Law applicable to the obligations resulting from a unilateral expression of will

Obligations resulting from a unilateral expression of will are governed by the law chosen by the person who commits himself. In the absence of such choice, they will be governed by the law of the State on the territory of which that person has its habitual residence at the time he entered into the obligation.

Art. 106. Law applicable to the direct action against the insurer

The law applicable by virtue of articles 98 to 105 determines whether the person who suffers damage has a direct action against the insurer of the person liable.

If the law, applicable by virtue of part 1, ignores the action the latter can still be instituted if it is available under the law applicable to the relevant insurance contract.

Art. 107. Law applicable to subrogation

The subrogation in the rights of the creditor by a third party that has compensated the latter is governed by the law applicable to the obligation of the third party to compensate the creditor.

Part 1 is also applicable if different persons are bound by the same non-contractual obligation and the creditor is compensated by one of them.

Art. 108. Law applicable to the effects vis-à-vis third parties of a representation

The question whether an intermediary can represent the person for which he pretends to act vis-à-vis third parties is governed by the law of the State on the territory of which the intermediary acts. Except if proven otherwise, the latter is presumed to be the State on which he has his habitual residence.

CHAPTER X. - BODIES WITH SEPARATE LEGAL PERSONALITY

Art. 109. International jurisdiction with respect to bodies with separate legal personality

Contrary to the general provisions of the present statute, Belgian courts only have jurisdiction to hear actions regarding the validity, the functioning and the dissolution or liquidation of a body with separate legal personality, if the main establishment or statutory seat of this body with separate legal personality is located in Belgium when the action is introduced.

Art. 110. Law applicable to bodies with separate legal personality

Bodies with separate legal personality are governed by the law of the State on the territory of which they had their main establishment since the time of the incorporation.

If the foreign law refers to the law of the State under which the body with separate legal personality has been created, the latter will apply.

Art. 111. Scope of application of the law applicable to bodies with separate legal personality

§1. The law applicable to bodies with separate legal personality determines notably:

- 1° the existence and legal nature of the body with separate legal personality;
- 2° the name or the corporate purpose;
- 3° the incorporation, dissolution and liquidation;
- 4° the legal capacity of the body with separate legal personality;
- 5° the composition, powers and functioning of its organs;
- 6° the internal relations between shareholders or members, as well as the relation between the body with separate legal personality and its shareholders or members;
- 7° the acquisition or loss of the capacity of shareholder or member;
- 8° the rights and obligations related to the profit shares or shares and their exercise;
- 9° the liability for a violation of the provisions of company law or the articles of incorporation;
- 10° the extent to which the body with separate legal personality is held vis-à-vis third parties to pay the debt contracted by its organs.

§2. A body with separate legal personality can however not invoke the incapacity based on limitations in the power of representation by virtue of the applicable law vis-à-vis a third party, if such incapacity is unknown in the law of the State on the territory of which it acted and the third party at that time did not know or should not have known the incapacity.

Art. 112. Transfer of the main establishment

The transfer of the main establishment of a body with separate legal personality from one State to another can only take place without interruption of its incorporation and legal personality, if done with due regard for the conditions under which the law of these States permits it.

If a body with separate legal personality transfers its main establishment to the territory of another State, the law of that other State will apply as of the transfer.

Art. 113. Merger

The merger of bodies with separate legal personality is governed for each of them by the law of the State, which applied to the body with separate legal personality before the merger.

Art. 114. Claims resulting from a public issue

Claims resulting from a public issue of titles are governed, at the choice of the security holder, by the law applicable to the body with separate legal personality or by the law of the State on the territory of which the public issue took place.

Art. 115. Effect of foreign judgments

In addition to the existence of refusal grounds provided for in article 25, a foreign judgment in respect of the validity, the functioning, the dissolution or liquidation of a body with separate legal personality will not be recognized in Belgium if the main establishment of that body with separate legal personality was established in Belgium at the time the claim was brought abroad.

CHAPTER XI - COLLECTIVE INSOLVENCY PROCEEDINGS

Art. 116. Scope of application

This chapter applies to insolvency proceedings and procedures for collective debt settlement.

Art. 117. Definitions

In this chapter:

- 1° “insolvency proceeding” shall mean the collective proceedings referred to in article 116.
- 2° “principal proceeding” shall mean an insolvency proceeding of which the effects concern the entirety of the assets of the debtor;
- 3° “territorial insolvency proceeding” shall mean the insolvency proceeding with effects that only concern assets of the debtor that are located on the territory of the State where the proceedings are opened;
- 4° “insolvency regulation” shall mean Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings;
- 5° “liquidator” shall mean any person or body that is appointed on the basis of a foreign decision, to administer or liquidate assets of which the debtor has been divested; or in absence of such person the debtor himself;

Art. 118. International jurisdiction with respect to insolvency

§1. Contrary to the general provisions of the present statute, Belgian courts only have jurisdiction to open insolvency proceedings in the cases provided for by article 3 of the insolvency regulation.

In the other cases, they have however jurisdiction:

1° to open a principal proceeding: if the main establishment or statutory seat of the body with separate legal entity is located in Belgium, or if the domicile of a natural person is located in Belgium;

2° to open territorial proceedings: if the debtor has an establishment in Belgium.

§2. If a Belgian court has declared itself competent to open insolvency proceedings, on the basis of the insolvency regulation or on the basis of §1, the court will also have jurisdiction to hear disputes which directly result thereof.

§3. The recognition in Belgium of a foreign judgment which opens a principal proceeding does not affect the competence of the Belgian court to open a territorial proceeding.

Art. 119. Law applicable to collective insolvency proceedings

§1. The insolvency proceeding opened on the basis of article 118,§1 second part and the effects thereof are governed by Belgian law.

Belgian law shall determine the conditions for the opening of those proceedings, their conduct and their closure. It shall determine in particular the legal issues mentioned under article 4§2 (a) up to (m) of the insolvency regulation.

§2. Contrary to §1, but without prejudice to the application of the law designated by virtue of §1 on the actions in nullity, avoidance or non-enforceability of actions which are disadvantageous for all creditors, the effects of the opening of the insolvency proceedings:

1° on the rights in rem of third parties in respect of assets belonging to the debtor and which are located within the territory of another State when the proceedings are opened, are governed by the law applicable to those rights in rem, without prejudice to the individual exercise of the rights referred to in article 8, paragraph 2 of the insolvency regulation;

2° on the rights of a creditor to demand set-off of his claim against the claim of the debtor, are governed by the law applicable to the insolvent debtor's claim;

3° on the reservation of title of the seller of an asset that at the time of the opening of the proceedings is located within the territory of another State, are governed by the law applicable to the rights in rem on the asset.

§3. Contrary to §1, the effects of the opening of the insolvency proceeding on:

1° a contract conferring the right to acquire or make use of immovable property are governed by the law applicable to the contract;

2° the rights and obligations of the parties to a payment or settlement system or to a financial market, are governed by the law applicable to that system or market;

3° employment contracts and relationships are governed by the law applicable to the employment contract;

4° the rights of the debtor in immoveable property, a ship, or an aircraft, that is subject to registration in a public register, are governed by the law applicable to those rights.

§4. Contrary to §1:

- 1° where the person who benefited from an act detrimental to all creditors provides proof that the said act is subject to the law of another state and that such law does not allow any means of challenging that act in the relevant case, the actions in nullity, avoidance or non-enforceability of that act are governed by the law of that State;
- 2° where by an act concluded after the opening of the insolvency proceedings, the debtor disposes, for consideration, of an immoveable asset, or ship or an aircraft subject to registration in a public register, or securities whose existence presupposes registration in a register laid down by law; the validity of that act against the third-party purchaser, is governed by the law of the State within the territory of which the immoveable asset is located or the register is kept.
- 3° the effects of an opening of an insolvency proceeding on a lawsuit pending concerning an asset or a right of which the debtor has been divested are governed by the law of the State in which that lawsuit is pending.

Art. 120. Duty to inform and cooperate

[no longer in force]

Art. 121. Effect of foreign insolvency judgments

§1. A foreign judgment concerning the opening, the conduct or the closure of insolvency proceedings, which is not rendered on the basis of the insolvency regulation, will be recognized or declared enforceable in Belgium in accordance with article 22:

- 1° as a judgment in principal proceedings, if the judgment was given by a judge in a State where the debtor had its main establishment at the time when the action was introduced
- 2° as a judgment in territorial proceedings, if the judgment was given by a judge in a State where the debtor had another establishment than its main establishment at the time when the action was introduced; in this event the recognition and enforcement of the judgment may only relate to assets located in the territory of the State where the proceedings were opened.

§2. A foreign judgment referred to in §1 may not produce any effect in Belgium that is contrary to the rights of parties according to the rules laid down in article 119, §2 to §4.

§3. The recognition entails that the liquidator may exercise all powers conferred on him by the foreign judgment. He may in particular in his capacity of liquidator of foreign principal proceedings request territorial proceedings or temporary and conservative measures in Belgium.

§4. Contrary to article 23, the enterprise court has jurisdiction to hear actions based on §1.

The enterprise court has also jurisdiction to hear actions for the recognition or enforcement of foreign judgments which were given on the basis of the insolvency regulation.

However, these derogations do not apply to judgments regarding collective debt arrangements of a person that is not a tradesman in the sense of Belgian law.

CHAPTER XII - TRUSTS

Art. 122. Characteristics of the trust

For the purposes of the present statute, the term “trust” means a legal relationship created by an act of the settlor or by a judicial decision, by which assets are placed under the control of a trustee in order to be administrated in the interest of the beneficiary or for a certain purpose. This legal relationship presents the following characteristics:

- 1° the assets of the trust form a separate estate and are not part of the estate of the trustee;
- 2° the title to the assets of the trust is drafted in the name of the trustee or the name of another person on behalf of the trustee;
- 3° the trustee has the authority and the duty, in respect of which he has to justify himself, to manage, administer or dispose of the goods in accordance with the provisions of the trust and the special duties imposed by law on the trustee.

Art. 123. International jurisdiction with respect to trusts

§1. In addition to the cases provided for by the general provisions of the present statute, the Belgian courts have jurisdiction to hear actions regarding the relations between the settlor, the trustee or the beneficiary of the trust, if:

- 1° the trust is administrated in Belgium;
- 2° the claim concerns assets located in Belgium at the time when the action is introduced;

§2. If in the trust deed jurisdiction is attributed to Belgian or foreign courts, or to one of them, articles 6 and 7 apply by analogy.

Art. 124. Law applicable to the trust

§1. The trust is governed by the law chosen by the settlor. The choice has to be made expressly or it has to be implied by the provisions of the deed of incorporation of the trust, the written document out of which the existence of the trust appears or by the circumstances of the case. The settlor can designate the applicable law for the entire trust or only for a part thereof.

If, except for the choice of law, all meaningful elements of the trust are connected with a State, the law of which does not know the institution of the trust, the choice will not have any effect.

§2. In the absence of choice of law in accordance with § 1 or if the chosen law does not consider the trust to be valid, the trust will be governed by the law of the State on the territory of which the trustee had his habitual residence at the time of the incorporation.

§3. The choice cannot result in the fact that an heir loses its reserved part in the inheritance, which is guaranteed by the law applicable by virtue of article 78.

Art. 125. Scope of application of the law applicable to the trust

§1. The law applicable to the trust determines notably:

- 1° the incorporation of the trust and its modalities;

- 2° the interpretation of the trust;
- 3° the administration of the trust as well as the rights and obligations which result thereof;
- 4° the consequences of the trust;
- 5° the termination of the trust.

§2. The law applicable does not determine the validity of the deeds of acquisition or transfer of rights in rem in relation to the assets of the trust nor the transfer of the rights in rem in relation to those assets or the protection of the third-part acquirers of those assets. The rights and obligations of a third party who possesses an asset of the trust remain governed by the law applicable by virtue of chapter VIII.

CHAPTER XIII - FINAL PROVISIONS

SECTION 1. Transition provisions

Art. 126. International jurisdiction and effect of foreign judgments and authentic instruments

§1. The articles regarding the international jurisdiction of the courts are applicable to actions introduced after the present statute enters into force.

The articles regarding the international jurisdiction of authorities are applicable to instruments drawn up after the present statute enters into force.

Article 77, as it read before being replaced by the law of 6th July 2017 remains applicable to successions that were opened before 17th August 2015 and, in case the action is concerned with a succession referred to in article 77§2, to successions that were opened before the tenth day following the publication of that law in the Belgian Official Journal.

§2. The articles regarding the effect of the foreign judgments and foreign authentic instruments are applicable to judgments and instruments rendered or drawn up after the present statute enters into force.

A decision or instrument rendered or drawn up before the present statute enters into force can however have effect in Belgium if it satisfies the conditions of the present statute.

Contrary to part 2, a marriage between persons of the same sex may produce effects in Belgium as of 1 June 2003, if the marriage satisfies the conditions of the present statute.

Art. 127. Conflict of laws

§1. The present law determines the law applicable to the legal acts and facts, which take place after the present statute enters into force.

The present statute determines the law applicable to the consequences, which after the present statute enters into force result from a legal act or fact which took place before it entered into force; the consequences of an act or fact referred to in articles 98, 99, 104 and 105 excluded.

§2. A choice of law made by parties before the present statute enters into force is valid if it satisfies the conditions of the present statute.

- §3. Article 46, part 2, applies to any marriage concluded as of 1 June 2003.
- §4. Articles 55 and 56 are applicable to claims brought after the present statute enters into force.
- §5. Articles 62 and 64 are applicable to claims brought after the present statute enters into force. However, they do not affect the filiation established prior to such date.
- §6. Articles 67 and 69 are applicable to instruments drawn up after the present statute enters into force.
- §6/1. Article 78, as it read before being replaced by the law of 6th July 2017 and articles 79 to 84 as they read before being repealed by the law of 6th July 2017, remain applicable to successions that were opened before 17th August 2015 and, in case the action is concerned with a succession referred to in article 78§2, to successions that were opened before the tenth day following the publication of that law in the Belgian Official Journal.
- §7. Article 90 applies to the item that has unlawfully left the territory of the State after the present statute enters into force.
- §7/1. Article 98,§1, as it read before being replaced by the law of 6th July 2017 remains applicable to the contractual obligations referred to in article 98§1, paragraph two, that were concluded before the tenth day following the publication of that law in the Belgian Official Journal.
- §8. Articles 124 and 125 are applicable to instruments drawn up before the present statute enters into force. However, they do not affect the instruments validly drawn up prior to such date.

SECTION 2. Modifying provisions

Art. 128. Transcription of foreign instruments of civil status regarding Belgians

Article 48 of the Civil Code, abolished by the law of 15 December 1949, is restored in the following version:

“Art. 48. -§1. Each Belgian, or its legal representative, may request that an instrument with respect to civil status drawn up in a foreign country in respect of him be transcribed in the civil register of the local authority of his domicile or of his first establishment upon returning to the Kingdom. Of this transcription mention is made in the side of the current registers, according to the date of the fact to which the instrument relates.

In the absence of a domicile or residence in Belgium, the transcription of an instrument referred to in the previous part can be done in the registers of the civil status of the local authority of the last domicile in Belgium of the relevant person or of one of his ascendants or of the local authority of his place of birth or in the absence hereof, in the registers of the civil status of Brussels.

§2. The advocate-general may request that an instrument of the civil status regarding a Belgian draw up in a foreign country is transcribed in the registers of civil status in accordance with §1.”

Art. 129 Evidence presented when the intention to marry is declared

Article 64,§1, 5° of the same Code, reinstated by the law of 4 May 1999 is completed as follows:

“as well as, as the case may be, evidence of the habitual residence in Belgium since more than three months”.

Art. 130. Mentioning of the choice of the law applicable to the matrimonial property regime

In Article 76,10° of the same Code, introduced by the law of 16 December 1851 and replaced by the law of 14 July 1976, the following words are added after the words “the matrimonial property regime of the spouses” :

“and, in international cases, the possible choice of the national law that will be applicable to the matrimonial property regime made by the spouses”.

Art. 131 Scope of the law on adoption

In article 359-3 of the same Code, introduced by the law of 24 April 2003, the words “the rules of international private law and” are deleted.

Art. 132. Choice of the matrimonial property regime when one of the spouses is Belgian

In article 1389 of the same Code, modified by the law of 14 July 1976, the words “ or, if one of them is Belgian, to a foreign legislation” are deleted.

Art. 133. Changing the matrimonial property regime abroad

To article 1395 of the same Code, modified by the laws of 14 July 1976 and 9 July 1998, the following paragraph is added:

“§6. A foreign instrument changing the matrimonial property regime can, if it fulfils the conditions required for its recognition in Belgium, be mentioned on the side of the instrument drawn up by a notary public and be added to that instrument. This formality is effected with a view to the publication of the change and has not as effect that it can be opposed to third parties.”

Art. 134. Jurisdiction of the court of first instance and court of enterprises

Article 570 of the Code of Civil Procedure is replaced by the following provision:

“Article. 570. - The court of first instance hears actions referred to in articles 23,§ 1, 27 and 31 of the law of [...] holding the Code of Private International Law regardless the value of the dispute.

The family court hears actions referred to in article 31, §1, part three of the Code of Private International Law. The family court also hears actions referred to in articles 23, §1, part two lid, and 27, §1, part four lid, second sentence and §2, second sentence of the same Code.

Contrary to part 1 the enterprise court renders judgments on the actions referred to in article 121 of the Code of Private International Law.”

Art. 135. Territorial jurisdiction regarding bankruptcy

Article 631,§1 part 2 of the same Code, modified by the laws of 8 August 1997 and 4 September 2002, is replaced by the following provision:

“The commercial court that has jurisdiction to declare a territorial or secondary bankruptcy by application of article 3,§2 or §3 of Council Regulation 1346/2000/EC of 29 May 2000 on insolvency proceedings, is the court that is located in the district in which the debtor has the said establishment. If there are several establishments, the court, which is first seized, has jurisdiction.”

Art. 136. Territorial jurisdiction regarding the collective debt arrangement

In article 1675/2 part one of the same Code the words “with domicile in Belgium” are deleted.

Art. 137. Recognition of foreign companies

In article 58 of the Companies Code, introduced by the law of 7 May 1999, the words “real seat” are replaced by the words “main establishment”.

Article 138. Territorial bankruptcy of the debtor

In article 3 of the law of 8 August 1997 on bankruptcy, amended by the law of 4 September 2002, the following modifications are made:

A. The first part is replaced as follows:

“§1. If territorial insolvency proceedings are opened by virtue of article 3,§2 of Council Regulation 1346/200/EC on insolvency proceedings or by virtue of article 118, §1 part 2, 2° of the Law of ... holding the Code of Private International Law, the status of bankruptcy of the establishment is determined independently from the debtor’s status of the trader and the status of his establishment abroad.

If territorial insolvency proceedings are opened by virtue of article 3,§3 of Council Regulation 1346/200/EC on insolvency proceedings or by virtue of article 118, §1 part 2, 2° of said law, as a result of the recognition of a foreign judgment to open principal proceedings, the declaration of bankruptcy takes place without verifying the status of the debtor in any way.”

B. The second part becomes §2.

SECTION 3. Abolished provisions

Art. 139. Provisions that are abolished

The following provisions are abolished:

- 1° the articles 3, 15 and 47 of the Civil Code;
- 2° article 170 of the Civil Code, modified by the laws of 12 July 1931, 1 March 2000, and 13 February 2003;
- 3° article 170ter of the Civil Code inserted by the law of 12 July 1931;
- 4° article 171 of the Civil Code, replaced by the law of 12 July 1931 and modified by the law of 13 February 2003;
- 5° articles 359-5 of the Civil Code, modified by the law of 24 April 2003;
- 6° article 912 of the Civil Code, modified by the law of 15 December 1980;
- 7° article 999 of the Civil Code, modified by the laws of 15 December 1949 and 29 July 1971;
- 8° the articles 586, 2° and 3°, 635, 636 and 638 of the Code of Civil Procedure;
- 9° the law of 27 June 1960, on the admissibility of the divorce if at least one of the spouses is a foreigner;
- 10° Article 56 of the law of 7 May 1999 holding the Companies Code;

- 11° article 145 of the law of 2 August 2002 regarding the supervision on the financial sector and financial services;
- 12.° article 24, §1 of the law of 24 April 2003 reforming the adoption.

SECTION 4. Entry into force

Art. 140. Entry into force

The present statute enters into force the first day of the third month following the month during which publication in the Belgian Official Journal took place.

Chapter V, section 2, article 131 and 139, 5° and 12° will not enter into force before the entry into force of the law of 24 April 2003 reforming the adoption.

Chapter I is only applicable on adoption or the revocation of adoption as of the date of the entry into force of Chapter V, section 2. Article 15 of the Civil Code and the articles 635, 636 and 638 of the Code of Civil Procedure remain in force until the same date in as far as they relate to adoption or revocation of adoption.