

# Hungary and the Lugano Convention

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## I. Hungarian Efforts Towards Accession to the Lugano Convention

By the 1970s and 1980s, Hungary had already concluded agreements on mutual assistance in civil and criminal matters with a number of the Contracting States of the Lugano Convention.<sup>1</sup> However, of those bilateral agreements, only those concluded with Greece (1979)<sup>2</sup> and France (1980)<sup>3</sup> contain detailed rules on the mutual recognition and enforcement of judgments in civil and commercial matters. In the relationship with Germany, quite similar rules developed as a matter of reciprocal practice.<sup>4</sup> In addition to these agreements on mutual judicial assistance, Hungary has also been a party to a number of multinational agreements for some decades, namely, the New York Convention on Recognition and Enforcement of Arbitral Awards<sup>5</sup> (since 1962) and the Hague Child Support Convention<sup>6</sup> (since 1965).

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<sup>1</sup> Such agreements were concluded with Austria, Finland, France, Greece, Italy, Poland, and the United Kingdom. So far, Poland was the only country that was invited to join according to Art. 62(1)(b) of the Lugano Convention and has become a Contracting State of this Convention as of 1 February 2000. *See*, for example, Rolf Wagner, 'Zum Inkrafttreten des Lugano-Übereinkommens für die Republik Polen' *WiRO* 2000, pp. 47–50; Dieter Martiny/Ulrich Ernst, 'Der Beitritt Polens zum Luganer Übereinkommen', *IPRax* 2001, pp. 29–31.

<sup>2</sup> Promulgated in Hungary by legislative decree No. 21 of 1981.

<sup>3</sup> Promulgated in Hungary by legislative decree No. 3 of 1982.

<sup>4</sup> Bráváczné/Szőcs, 'A polgári és kereskedelmi ügyekben irányadó bírósági joghatóságról és a bírósági határozatok végrehajtásáról szóló Luganoi Egyezmény alkalmazásának egyes kérdései, különös tekintettel a magyar jog vonatkozó rendelkezéseire' (Some questions concerning the application of the Lugano Convention, with particular reference to Hungarian international procedural law) in *Európai Tükör*, No. 50/1999, pp. 5–47 (at 6 et seq.).

<sup>5</sup> United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 10 June 1958.

<sup>6</sup> Convention Concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children, The Hague, 15 April 1958.

Nevertheless, Hungary's efforts to join the Lugano Convention<sup>7</sup> according to its Article 62(1)(b), qualitatively represent a new dimension.<sup>8</sup>

The first preparatory steps on the diplomatic level were undertaken in the mid-1990s. They were successful as the Finnish Government, on 18 November 1996, requested the Swiss Federal Council, as the Government of the Depository State, to invite Hungary to accede to the Lugano Convention. The Austrian Government supported the Finnish request. The Swiss Government notified the Hungarian Government of this on 29 November 1996 in a diplomatic note. Subsequently, the Hungarian Government made the notifications required by Article 63 of the Lugano Convention and deposited two declarations.<sup>9</sup>

## II. Notifications and Declarations in the Instrument of Accession of 3 December 1997

### 1. Notifications

#### a) *Exorbitant Jurisdictions*

AA) According to Article 63 of the Lugano Convention, Hungary notified with respect to Article 3(2) that §54 of the Hungarian Law on Private International Law (PIL-L)<sup>10</sup> should be considered an exorbitant jurisdiction without close connection.<sup>11</sup> This rule generally provided for jurisdiction of the Hungarian courts, whenever such

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<sup>7</sup> Reproduced in the Official Journal of the European Community, OJ 1988 L 319/9; see also the report by Jenard/Moller in OJ 1990 C 189/57 et seq. On the Lugano Convention in general see Ena-Marlies Bajons, 'Das Luganer Parallelübereinkommen zum EuGVÜ', ZfRV 1993, pp. 45 et seq.; Jan Kropholler, *Europäisches Zivilprozeßrecht. Kommentar zum EuGVÜ und Lugano-Übereinkommen*, 6<sup>th</sup> ed., Heidelberg 1998; Peter Gottwald, IZPR, in *Münchener Kommentar zur Zivilprozeßordnung*, Munich 1992, pp. 1751 et seq.; Jayme/Kohler, IPRax 1996, pp. 386 et seq.; Erik Jayme (ed.), *Ein internationales Zivilverfahrensrecht für Gesamteuropa*, Heidelberg 1992.

<sup>8</sup> See Miklós Kengyel, 'Die ungarischen Perspektiven für einen Beitritt zum EuGVÜ oder zum Lugano-Übereinkommen', in Tomuschat/Kötz/v. Maydell (eds), *Europäische Integration und nationale Rechtskulturen*, Cologne 1995, pp. 63 et seq.; idem, 'Ungarn vor dem Tore des Lugano-Übereinkommens', in Reinhold Geimer (ed.), *Festschrift Schütze*, Munich 1999, pp. 347 et seq.

<sup>9</sup> The notifications and the declarations were formulated in Hungarian Governmental Decree No. 2392 of 3 December 1997.

<sup>10</sup> Legislative Decree no. 13 of 1979; see Mádl/Vékás, *The Law of Conflicts and of International Economic Relations*, 2<sup>nd</sup> ed., Budapest 1998.

<sup>11</sup> Haimo Schack, *Internationales Zivilverfahrensrecht*, Munich 1991, Rn. 195.

jurisdiction was not specifically excluded by law.<sup>12</sup> In any case, this broad rule on jurisdiction in the Hungarian PIL-L was repealed on 1 May 2001.<sup>13</sup>

AB) Another exorbitant jurisdiction without close connection<sup>14</sup> is provided by §57 of the Hungarian PIL-L (which is unchanged in the new version), and §32(3) of the Hungarian Civil Procedure Code, according to which a lawsuit can also be brought before the court where the disputed object or other property of the defendant is located, if the defendant does not have a domicile or other presence in Hungary. The German Civil Procedure Code (§23) and the Austrian Law on Court Jurisdiction (§99) contain similar rules.<sup>15</sup>

AC) Furthermore, there is jurisdiction at the domicile of the plaintiff<sup>16</sup> if the defendant does not have a domicile or other presence in Hungary.<sup>17</sup>

In principle, the comprehensive system of rules on jurisdiction contained in the Lugano Convention excludes the application of other rules on jurisdiction, in particular those of national law. Hence, exorbitant jurisdictions, among others, are generally preempted. However, it can be argued that Hungary should have notified the exorbitant jurisdictions mentioned under ab) and ac) of the Government of the Depository State.<sup>18</sup> The list of prohibited jurisdictional bases contained in Article 3(2) of the Lugano Convention has as its function providing notification of those rules on jurisdiction contained in the procedural law of the contracting states that must be considered as rules without close connection.<sup>19</sup>

<sup>12</sup> See Miklós Kengyel, 'Länderbericht Ungarn', in Bülow/Böckstiegel, *Internationaler Rechtsverkehr in Zivil- und Handelssachen*, Vol. III pp. 1151 et seq.

<sup>13</sup> Law no. CX of 17 October 2000.

<sup>14</sup> Kropholler advocates the elimination of exorbitant jurisdictions not only in the West European legal context but from national law in general, *supra* note 7, p. 92.

<sup>15</sup> Similar jurisdictional rules can also be found in British, Danish, Finnish, Greek, Icelandic, Norwegian, Polish, and Swedish procedural law. As a rule, the countries concerned have notified their exorbitant jurisdictions to the Government of the Depository State.

<sup>16</sup> §29(2) of the Hungarian Civil Procedure Code; this rule is similar to Art. 126(3) of the Dutch Civil Procedure Code, which is specifically mentioned in Art. 3(2) of the Lugano Convention.

<sup>17</sup> In international disputes, this jurisdictional base can only be claimed in accordance with Art. 4(2) of the Lugano Convention in the absence of a domicile of the defendant in a Contracting State.

<sup>18</sup> As far as §32(3) of the Hungarian Civil Procedure Code is concerned, this is supported by Miklós Kengyel, 'Magyarország a Luganói Egyezmény kapujában' (Hungary at the Gates of Lugano), *Magyar Jog* 1999, pp. 329 et seq. (334–5).

<sup>19</sup> See also Paul Jenard, 'Bericht zu dem Übereinkommen über die gerichtliche Zuständigkeit und die Vollstreckung gerichtlicher Entscheidungen in Zivil- und Handelssachen', OJ 1979 C 59/1, Art. 3.

*b) Courts with jurisdiction*

BA) With regard to Article 32, Hungary has notified that applications for enforcement should be submitted to the local court of first instance at the County Court, and in Budapest to the central local court in Pest (PKKB). The explanation for this solution is that in Hungary the executory title is issued by the local courts. At the same time, this choice of jurisdiction for enforcement ensures the necessary concentration, taking into account the need for specialized knowledge and minimal expenditure of time for the efficient enforcement of foreign judgments.

BB) With regard to Article 37, Hungary has notified that the appeal should be lodged with the County Court, and in Budapest with the Capital Court. The decision of the Appellate Court can only exceptionally be reviewed by the Supreme Court, if a claim is made that the enforceable decision is in violation of statute law.

BC) Similarly, the applicant can appeal to the County Court according to Article 40 of the Lugano Convention or lodge a request for an exceptional review by the Supreme Court according to Article 41, if his or her application for enforcement or appeal against the refusal of enforcement has been denied.<sup>20</sup>

*c) Bilateral agreements to be replaced*

Pursuant to the notification by the Hungarian Government, the Lugano Convention shall supersede – in the sense of Article 55 – the two above-mentioned agreements on mutual assistance in civil and criminal matters concluded with Greece and France.

**2. Declarations**

a) Germany, Austria, Sweden, and Switzerland, Hungary sent a declaration in accordance with Article IV(2) of Protocol Number 1 to the Swiss Federal Council. Consequently, judicial and extrajudicial documents drawn up in another Contracting State cannot be sent directly to the appropriate Hungarian public officers. Rather, they must be served on persons in Hungary in cooperation with the Hungarian Ministry of Justice.

The official reason given for this solution was long-standing Hungarian practice. Hungary has been a member state of the 1954 Hague Convention Relating to Civil Procedure since 1966.<sup>21</sup> This Convention is based on the principle of serving

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<sup>20</sup> Concerning the exceptional review by the Supreme Court, *see* §214(1) of Law no. LIII of 6 April 1994 on Court Enforcement (as amended by §107 of Law no. CXXXVI of 19 December 2000, which entered into force on 1 September 2001).

<sup>21</sup> Legislative Decree no. 8 of 1966 and Decree no. 4 of the Minister of Justice of 1966 promulgating the Convention Relating to Civil Procedure of 1 March 1954.

documents via the diplomatic channels (see Art. 1). Direct contact between the competent authorities is possible only after the conclusion of additional agreements (see Article 1(4)). Hungary never concluded such additional agreements. Similarly, Hungary's agreements on mutual assistance in civil and criminal matters provide only for indirect service, including those with the Contracting States of the Lugano Convention, such as France, Finland, Greece, the United Kingdom, and Austria. Considering this long-standing practice, and since the most active contacts have always been with those Contracting States of the Lugano Convention that also have deposited a declaration according to Article IV(2), Hungary opted to retain indirect service even after accession to the Convention, at least for the time being.

### *b) Reservation According to Article V of Protocol Number 1*

Under Article V of Protocol Number 1 it is possible to make a reservation against the application of the jurisdictional bases contained in Articles 6 and 10. Pursuant to Article 6(2), a person domiciled in a Contracting State may be sued as a third party in the court seized of the original proceedings, if there is an action on a warranty or any other type of third-party proceedings. As is commonly known, these special jurisdictions have their roots in Roman procedural law.<sup>22</sup> According to Article 10(1) of the Lugano Convention, in respect of liability insurance, the insurer may also be summoned to appear before the court where the injured party has brought proceedings against the insured party, provided this is permitted under the *lex fori*.

The Hungarian law does not recognize an action on warranty, nor any other third-party proceedings. Instead, it provides a third-party notice procedure for these kinds of purposes (*litis denuntiatio*). Hungary thus declared a reservation according to Article V of Protocol Number 1 excluding the special jurisdictional bases of Articles 6 and 10, much as it was done by Germany, Spain, Switzerland, and Austria. Consequently, these jurisdictions cannot be claimed in Hungary either. Instead, any person domiciled in another Contracting State can be summoned to appear in court in Hungary pursuant to Articles 58 to 60 of the Hungarian Civil Procedure Code. These are the provisions on third-party notices, similar to Articles 72 to 74 of the German, Article 21 of the Austrian, and Article 46 of the Zurich civil procedure codes.

On the other hand, Hungary has declared, pursuant to Article V (2) of Protocol Number 1, that it will recognize and enforce judgments in accordance with Title III of the Lugano Convention, if they have been given in another Contracting State by virtue of Article 6(2) or Article 10.<sup>23</sup>

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<sup>22</sup> *Kropholler, supra* note 7, p. 153 with footnote 34.

<sup>23</sup> Hungarian Governmental Decree no. 2392 of 3 December 1997.

### III. Modifications to the Rules on International Jurisdiction in the Hungarian PIL-Law

#### 1. Introduction

Accession to the Lugano Convention as such does not necessarily require conformity of all domestic rules on jurisdiction, recognition and enforcement with those contained in the Convention, since, according to Article 2 of the Hungarian PIL-L, international agreements take precedence over domestic law in this respect.<sup>24</sup>

Nevertheless, the Hungarian legislature used the occasion of the preparations for accession to enact several useful reforms of the PIL-L and thus also to avoid the inconvenience of diverging rules in international procedural law as much as possible. The reform was achieved by Law number CX of 17 October 2000, which entered into force on 1 May 2001. This law contains a number of substantial changes regarding international jurisdiction and regarding the rules on recognition and enforcement of foreign judgments, and aims at ensuring that Hungarian law is in conformity with the rules of the Lugano Convention as much as possible. In this way, the legislature seeks to avoid a situation where, after accession to the Lugano Convention, important procedural questions must be dealt with differently in relation to Contracting States when compared to the relations with third countries, without any substantial reason for such differentiation.<sup>25</sup>

The Hungarian PIL-L does not contain an express rule about examination as to jurisdiction and admissibility of a claim. However, it is generally held by the courts and in literature that a court always has to examine its jurisdiction *ex officio*.<sup>26</sup>

#### 2. General Jurisdiction

The elimination of the exorbitant general jurisdiction without close connection<sup>27</sup> in the revised PIL-L has already been mentioned above. The new general jurisdiction rule is fully in line with the principle *actor sequitur forum rei* and hence with Article 2(1) of the Lugano Convention. Concretely, the new rule is phrased as follows: 'Without prejudice to the provisions of this law related to exclusive jurisdiction, all persons having their domicile or habitual residence in Hungary shall be sued in the courts of Hungary.'

#### 3. Special Jurisdictions

Most special rules on jurisdiction in the revised Hungarian PIL-L are also comparable,

<sup>24</sup> See also §210 of Law no. LIII of 6 April 1994 on Court Enforcement.

<sup>25</sup> Bráváczné/Szöcs, *supra* note 4, p. 47.

<sup>26</sup> This follows from the provisions included in §130(1)(a) of the Hungarian Civil Procedure Code. See also Mád/Vékás, §21, §112, and Art. 19 of the Lugano Convention.

<sup>27</sup> §54 of the old PIL-Law, *supra* note 10, see *supra*, II. 1. a).

or even identical, to the provisions in the Lugano Convention. Contractual claims, for example, can be brought in the courts for the place of performance; claims related to tort or delict can be brought in the courts of the place where the harmful event occurred; and claims related to maintenance can be brought in the courts of the place where the maintenance creditor is domiciled or habitually resident.<sup>28</sup>

Furthermore, again following the example of the Lugano Convention, the revised Hungarian PIL-L provides for asymmetrical rules of jurisdiction over consumer contracts.<sup>29</sup>

#### 4. Exclusive Jurisdictions

The Lugano Convention also provided the model for the rules on exclusive jurisdiction of the Hungarian courts. The latter have exclusive jurisdiction in proceedings which have as their object: rights *in rem* in immovable property or tenancies of immovable property; the validity of the constitution, the nullity or the dissolution of companies or other legal persons or decisions of their organs; the validity of entries in public registers; registration or validity of patents, trade marks, designs or models; and finally the enforcement of judgments.<sup>30</sup>

#### 5. Prorogation of Jurisdiction

In this context it is also worth mentioning the influence of the Lugano Convention on the detailed rules on prorogation by the parties to a dispute in the revised Hungarian PIL-L.<sup>31</sup> The Hungarian law follows the Lugano Convention not only with respect to the preconditions for prorogation but also as far as the effects of such agreements are concerned. Except for cases of exclusive jurisdiction, the parties are completely free to agree on the court that is to have jurisdiction over their dispute. In cases of consumer contracts and individual contracts of employment, the Hungarian law contains the same limitations on prorogation as the Lugano Convention.<sup>32</sup>

In general, prorogation results in the exclusive jurisdiction of the selected court or courts.<sup>33</sup> However, should the selected court declare that it does not have jurisdiction, the Hungarian courts can determine their jurisdiction according to the general rules, as soon as the decision of the selected court has become *res*

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<sup>28</sup> §§55, 56, and 56A of the PIL-Law, as amended.

<sup>29</sup> Art. 13–15 of the Lugano Convention and §§60, 62, and 62/G (2)-(3) of the Hungarian PIL-Law, as amended.

<sup>30</sup> Art. 16 of the Lugano Convention and §62A(a), (f), (g), (h), and (i) of the Hungarian PIL-Law, as amended.

<sup>31</sup> Art. 17–18 of the Lugano Convention and §§62/F, 62/G, and 62/H of the Hungarian PIL-Law, as amended.

<sup>32</sup> Arts. 15 and 17(6) of the Lugano Convention and §62/G(2) and (3) of the Hungarian PIL-Law, as amended.

<sup>33</sup> This was generally accepted by the courts and in literature even before the revision of the PIL-Law; compare *Mádl/Vékás*, *supra* note 10, §113, pt. 5.

*judicata*. Furthermore, a Hungarian court can obtain jurisdiction if the defendant enters an appearance before it.<sup>34</sup>

## 6. Lis Pendens

*Lis pendens* and its consequences for the recognition of a foreign judgment are once again regulated in the revised Hungarian PIL-L following the model of the Lugano Convention. A Hungarian court must stay its proceedings if the same claim is already pending between the same parties in a foreign court. As soon as the jurisdiction of the foreign court is established, the Hungarian court shall decline jurisdiction.<sup>35</sup>

# IV. Modifications to the Rules on Recognition and Enforcement of Foreign Judgments in the Hungarian PIL-Law

## 1. Introduction

In line with the Lugano Convention, the rules on recognition and enforcement of foreign judgments in the Hungarian PIL-L were also reformed in the year 2000.<sup>36</sup> A foreign ‘judgment’ according to these provisions is any final decision adopted by a court, regardless of its designation, including judgments, decisions, orders of enforcement, and the like.

As in the Lugano Convention, the general principle in the revised Hungarian PIL-L is the recognition of foreign judgments without the requirement of a special procedure.<sup>37</sup> Naturally, this does not preclude the parties from launching a special procedure in order to obtain a declaration that a specific foreign judgment shall be recognized. If an application for recognition of a foreign judgment is made in proceedings before a Hungarian court, that court shall have jurisdiction over the question, if its decision depends on the incidental question of recognition.

## 2. Refusal of Recognition

A foreign judgment shall not be recognized in Hungary

- if recognition would be contrary to public policy in Hungary (*ordre-public* clause);

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<sup>34</sup> §62/H PIL-Law, as amended; similar in Art. 18 of the Lugano Convention.

<sup>35</sup> §65 of the PIL-Law, as amended.

<sup>36</sup> Law no. CX of 17 October 2000, which entered into force on 1 May 2001.

<sup>37</sup> Art. 26(1) of the Lugano Convention and §74(1) of the Hungarian PIL-Law, as amended.



- if the foreign judgment was adopted in violation of rules in the Hungarian PIL-L concerning exclusive jurisdiction of Hungarian courts;
- if the defendant did not participate in the proceedings or if he or she was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him or her to arrange for his or her defence;<sup>38</sup>
- if the foreign judgment is irreconcilable with a decision given in a dispute between the same parties in Hungary (procedural *ordre-public* clause);
- if the foreign judgment was adopted in proceedings which grossly violated Hungarian rules on procedure.

With exception to the last provision – which can be criticized – the reasons for non-recognition provided in the Hungarian PIL-L are absolutely comparable to those of the Lugano Convention.<sup>39</sup> An important difference lies in the fact that according to Hungarian law only a decision which has become *res judicata* can be recognized.<sup>40</sup> The *ordre-public* clause is interpreted very restrictively. Recognition can only be refused if the violation of Hungarian public policy is intolerable.<sup>41</sup>

Any reasons for non-recognition will be considered by the court *ex officio*. However, the substance of the foreign judgment must never be reviewed (prohibition of revision *au fond*).<sup>42</sup>

### 3. Enforcement

Finally, Hungary substantially modified its provisions regarding enforcement of foreign judgments as part of the measures for its accession to the Lugano Convention.

In principle, any kind of foreign judgment can be declared enforceable in Hungary today, as long as the applicable requirements under the law are fulfilled.<sup>43</sup> Before the revision of the PIL-L,<sup>44</sup> foreign judgments could only be enforced if this was specifically provided for in international conventions or bilateral agreements, or on

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<sup>38</sup> Art. IV(1) of Protocol no. 1 annexed to the Lugano Convention provides that judicial and extrajudicial documents must be served in accordance with the procedures laid down in international conventions and bilateral agreements concluded between the Contracting States. Hungary has been a member State of the Convention Relating to Civil Procedure of 1 March 1954 since 1966 (Legislative Decree no. 8 of 1966 and Decree no. 4 of the Minister of Justice of 1966). Furthermore, Hungary has concluded bilateral agreements regarding mutual service of documents with the following Contracting States of the Lugano Convention: France, Finland, Greece, the United Kingdom, Italy, Austria, and Poland.

<sup>39</sup> §§70(1), 72(2) of the Hungarian PIL-Law, as amended and Arts. 27–28 of the Lugano Convention.

<sup>40</sup> §72(1)(b) of the Hungarian PIL-Law, as amended; *see, by contrast*, Art. 30 of the Lugano Convention.

<sup>41</sup> *Mádl/Vékás*, pp. 106 et seq.

<sup>42</sup> §74(3) of the Hungarian PIL-Law, as amended; *see also* Art. 29 of the Lugano Convention.

<sup>43</sup> §74/A of the Hungarian PIL-Law, as amended.

<sup>44</sup> Law no. CX of 17 October 2000, which entered into force on 1 May 2001.

the basis of reciprocity.<sup>45</sup> These, by way of the revision, represent an important step towards better conformity with the Lugano Convention was taken.

In this context, the fundamental reform of the Hungarian rules on execution and enforcement in 1994 is also important. The new law introduced the execution clause for foreign judgments.<sup>46</sup> The execution clause is a certificate added by the Hungarian court to a foreign judgment rendering it enforceable in Hungary. One difference between Hungarian law and the Lugano Convention remains to be corrected, however, namely, the fact that in Hungary, the appeals procedure against the decision authorising enforcement is not a contentious procedure.<sup>47</sup>

It is worth mentioning the introduction of new rules regarding appeals on points of law in 1992. The decisive revision of these rules was triggered by a decision of the Constitutional Court.<sup>48</sup> The new form of appeal on points of law is now available if a decision – including one that has become *res judicata* – was adopted regarding the enforcement of a foreign judgment, and is in violation of the law.<sup>49</sup>

## Conclusions

In conclusion, it is fair to say that Hungary has taken all necessary diplomatic steps for accession to the Lugano Convention and that it has prepared its international private law for this accession. The amendments to the laws dealing with jurisdiction, recognition and enforcement, described above, are acting to ensure conformity with the rules of the Lugano Convention.

It now remains to be seen when the Depository State will invite Hungary pursuant to Article 62(1)(b) of the Lugano Convention. The prescribed procedure for this invitation provides for unanimous agreement of all signatory States and Contracting Parties.<sup>50</sup> So far, nine States have deposited their agreement. However, the adoption of the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>51</sup> seems to have slowed down the accession

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<sup>45</sup> §74(1) of the Hungarian PIL-Law prior to the amendment.

<sup>46</sup> §208 of Law no. LIII of 6 April 1994 on Court Enforcement.

<sup>47</sup> §9 of Law no. LIII of 6 April 1994 on Court Enforcement; *compare* Art. 37 of the Lugano Convention.

<sup>48</sup> Decision no. 9/1992 (I.30.) AB, ABH 1992, 59.

<sup>49</sup> §214(1) of Law no. LIII of 6 April 1994 on Court Enforcement. The enforcement clause is granted by the court designated in §16(c) or (d) of Law no. LIII of 6 April 1994.

<sup>50</sup> According to *Jayme/Kohler*, this tedious procedure is set to be reformed in the context of the next revision of the Lugano Convention, cf. IPRax 2000, pp. 454 et seq., at 463.

<sup>51</sup> Council Regulation 44/2001 (EC) of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ 2001 L 12/1 of 16 January 2001, which will enter into force for all EU Member States, with the sole exception of Denmark, on 1 March 2002.

procedure. At the moment, it first is planned to amend the Lugano Convention accordingly and obtain the ratification by all Contracting States. It must be presumed that Hungary will only receive the formal invitation for accession after this procedure is completed.

As far as one can tell, work on the revision of the Lugano Convention<sup>52</sup> should be completed by March 2002. By contrast, the ratification procedure could take several years. It is possible, therefore, that Hungary might join the European Union in the meantime, with the consequence that the new Regulation would automatically become applicable in Hungary, without the country first becoming a Contracting State to the Lugano Convention. Membership of Hungary in the Convention would then only be of relevance in the relations with those Contracting States that are not also Member States of the EU.

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<sup>52</sup> Cf. IPRax 1999, pp. 404 at 410 et seq., 410, and IPRax 2000, pp. 454 et seq., 462 with footnotes 100–101.