

# PROPERTY LAW IN A TRANSITIONAL ECONOMY: THE CASE OF HUNGARY

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## INTRODUCTION

The term "property law" describes the set of rules that govern the possession, use and transfer of assets. Every political entity permits its citizens to acquire and use assets and therefore needs a set of rules describing which assets the citizen can possess, the uses to which these assets can be put, and the conditions under which the assets can be transferred. In short, every political entity needs some type of property law.

What sort of rules govern the possession, use and transfer of assets in a Communist society? Are these rules significantly different from the rules that exist in jurisdictions, such as the United States, that recognize the right to private ownership of property? How do these rules change when the society stops being Communist? This paper explores the answers to these questions by examining property law under the Communist and post-Communist system in Hungary. The results are, in the author's opinion, surprising.

## HISTORICAL BACKGROUND TO THE COMMUNIST LEGAL SYSTEM

For most of Hungarian history, law was based on custom.<sup>1</sup> In the early part of the sixteenth century, during the reign of the last Hungarian kings, the customs that served as law were compiled in a written work called the Tripartium.<sup>2</sup> This document remained the primary source of private law throughout the 150-year Turkish occupation and during the first 150 years of Hapsburg rule that followed after the Austrians expelled the Turks.<sup>3</sup>

Private statutory law began to appear during the early half of the nineteenth century.<sup>4</sup> For a brief period of time, 1853-1861, the Austrian Civil Code was in force.<sup>5</sup> With its repeal, the country returned to its primary reliance on the Tripartium.

During the latter quarter of the nineteenth century, steps were taken to codify Hungarian law. In 1875, the Hungarian Parliament adopted a Commercial Code.<sup>6</sup> Twenty years later, in 1895, a civil law codification committee was established.<sup>7</sup> The codification committee published a draft of a proposed civil code in 1900, but the draft was never adopted.<sup>8</sup>

Jurisprudence supplemented customary and statutory law. Pre-Communist jurisprudence consisted of applying general maxims or principles of law to the individual case.<sup>9</sup> The source of the maxims were custom, statutes that had never been codified and drafts of codes that were never adopted, such as the proposed but unadopted civil code.<sup>10</sup> In applying the maxims, however, Hungarian courts were not obligated to follow precedent.<sup>11</sup>

#### THE DEVELOPMENT OF THE CIVIL CODE

Upon assuming power in 1946, the Communists passed legislation that conflicted with existing legal rules without repealing the old rules.<sup>12</sup> This resulted in legal chaos.<sup>13</sup> The chaos worsened in 1953 when Joseph Stalin died and the reformer Imre Nagy replaced the Stalinist Matyas Rakosi as Prime Minister of Hungary.<sup>14</sup> Nagy announced a new economic policy, ending the forced development of heavy industry and ceasing the formation of farming cooperatives.<sup>15</sup> He allowed those who wished to leave the farm cooperatives to do so.<sup>16</sup> The Nagy government, like the Stalinist government that preceded it, changed policy without changing the underlying Hungarian law, which, of course, increased the legal chaos. It took steps in December of 1953,

however, that eventually would end the chaos by establishing a committee to codify the civil law.<sup>17</sup>

The committee conducted its work against a backdrop of political turbulence. In March 1955, the party Central Committee removed Nagy as Prime Minister, replacing him with the Stalinist Andras Hegedus and naming the Stalinist Rakosi as First Secretary of the party.<sup>18</sup> This government quickly proved unpopular.<sup>19</sup> Rakosi resigned as First Secretary and Erno Gero, also a member of the Stalinist wing of the party, replaced him as First Secretary.<sup>20</sup> Janos Kadar, a "moderate" Stalinist, became Central Committee Secretary.<sup>21</sup> Although the codification committee had been the creation of the Nagy government, and the Stalinists had resumed power, the efforts to draft a civil code proceeded unabated. In September of 1956, after almost three years of work, the committee published a draft of the proposed civil code and the government accepted the committee's report.<sup>22</sup>

The report arrived, however, as political unrest worsened. On October 22, 1956, students from Budapest Technical University learned that Polish reform Communists had assumed power in Poland and published a 15-point list of demands which included a demand for free elections, a multiparty system, economic freedom and the withdrawal of Soviet troops from the country.<sup>23</sup> The students called for a peaceful demonstration on October 23.<sup>24</sup>

On October 23, the students demonstrated and were joined by huge crowds of ordinary Budapest citizens.<sup>25</sup> The Hungarian government first prohibited the demonstration and then gave permission for it to occur.<sup>26</sup> During the evening, a unit of the State Security Authority fired into a crowd that was preparing to occupy a radio station.<sup>27</sup> An armed revolt began.<sup>28</sup>

On October 24, Nagy returned to the post of prime minister.<sup>29</sup> Nagy reluctantly acceded to the demands of the revolutionary councils and committees which had assumed power in Budapest,

formed a multiparty government, declared the country neutral and withdrew from the Warsaw Pact.<sup>30</sup> On November 4, 1956, Soviet troops attacked Budapest.<sup>31</sup> By November 11, the fighting was finished.<sup>32</sup> Nagy sought asylum in the Yugoslav embassy and Janos Kadar assumed leadership of the government.<sup>33</sup> In the months following the restoration of the Kadar regime, 200,000 persons left Hungary.<sup>34</sup> The Hungarian government coaxed Nagy out of exile in the Yugoslav embassy, arrested him, tried him and other members of his government, and then executed him on June 16, 1958.<sup>35</sup> Shortly thereafter, in 1959, the Hungarian Parliament adopted the Civil Code.<sup>36</sup>

#### PROPERTY RIGHTS UNDER THE 1959 CIVIL CODE

The 1959 Civil Code recognized four rights of ownership: the right of possession, the right of use, the right of disposal (transfer) and the right to make a profit.<sup>37</sup> It provided, however, that an owner's right of use did not include using his property in a manner that would needlessly disturb others or jeopardize the exercise of another's property rights.<sup>38</sup> The Code protected ownership rights by the right to damages and by an order of restraint (*i.e.*, an injunction),<sup>39</sup> remedies which also are available in the United States. These provisions are identical to the provisions found in United States property law.<sup>40</sup>

The Code authorized the acquisition of ownership rights in land and in anything that can be taken into possession.<sup>41</sup> It also provided that money and securities could be the subject of ownership.<sup>42</sup> The Code was silent on the ownership of subsurface mineral deposits and water.

The Code provided that a person could acquire ownership of property rights by transfer, manufacture (*i.e.*, processing and assembling), separation, accretion and adverse possession.<sup>43</sup> The term "transfer" included gifts as well as purchases,<sup>44</sup> and one could obtain ownership of transferred cash and bearer securities, even when the transferor had wrongful possession of the asset.<sup>45</sup> These

provisions on the acquisition of ownership are all found in United States law.<sup>46</sup>

The Code required the registration of real property transfers in the property register in order to be effective.<sup>47</sup> If an owner of a parcel of real property sold the property to more than one buyer, the first good faith purchaser to record his ownership in the property register became the owner.<sup>48</sup> If no purchaser was a good faith purchaser, the first to record the purchase in the property register was the owner.<sup>49</sup> These rules are similar to the rules that exist under the various recording statutes in the United States.<sup>50</sup>

Separation was the right of a bona fide possessor of property to acquire ownership of the produce and progeny of the property.<sup>51</sup> If a bona fide possessor lost possession after performing work or incurring expenses for the purpose of creating produce or progeny, he had the right to payment in kind, in produce or progeny, in proportion to his work and expenses.<sup>52</sup> This rule is similar to, but not quite identical, to the rule in the United States which gives the possessor of property the right to the produce unless a contract of possession states otherwise.<sup>53</sup>

A person who has been in possession of an item for 10 years without the permission of the owner acquired ownership by adverse possession, provided the person in possession did not acquire possession by a criminal act or by violent methods and provided that the owner was capable of exercising his rights.<sup>54</sup> A current adverse possessor could add his predecessor's period of adverse possession to his period of possession to satisfy the 10 year requirement.<sup>55</sup> These rules are identical to the rules that exist under adverse possession statutes in the United States.<sup>56</sup>

The adverse possession rules under the Civil Code, however, differed in one important aspect from the rules present in the typical United States statute. Under the Civil Code, a person who acquired ownership by adverse possession could not prevail against a person who paid

consideration for the property and relied upon the property register unless the adverse possessor registered his ownership in the property register.<sup>57</sup> An adverse possession in the United States does not have to record his title to prevail against a good faith purchaser.<sup>58</sup>

The 1959 Code recognized joint ownership. Each co-owner had equal possession and use rights but could exercise his rights in a manner that harmed the interest of the other owners. A co-owner could dispose of his/her interest in the property but the other co-owners had a preemptive right to acquire the share that was offered for sale.

Decisions on possession, use and expenses were made by majority vote with each owner voting in proportion to his share.<sup>59</sup> The majority, however, could not adversely effect the rights and legal interests of the minority.<sup>60</sup> Because each co-owner has a separate estate in the United States,<sup>61</sup> these provisions are not duplicated in United States law.

Proceeds and costs generated by jointly owned property were divided according to the proportionate shares of the owners.<sup>62</sup> An individual co-owner had the right to unilaterally take measures that were absolutely necessary to preserve or maintain the property and the co-owners were obliged to reimburse the person taking such measures in proportion to their ownership share.<sup>63</sup> This latter provision is consistent with provisions found in United States property law.<sup>64</sup> The former provision is not, at least as it relates to unessential costs.<sup>65</sup>

Minority co-owners whose rights had been violated by the majority could judicially contest the majority's decision.<sup>66</sup> Such a contest did not automatically prevent the majority decision from being executed.<sup>67</sup> The decision to suspend execution of the action authorized by the majority lay within the discretion of the reviewing court which had to exercise its discretion on reasonable grounds.<sup>68</sup> As explained previously, in the absence of agreement among the co-owners, decisions

by the majority of co-owners do not bind the minority in the United States. Thus, these provisions are not present in United States law.

Any individual co-owner could demand termination of the co-ownership.<sup>69</sup> Termination resulted in division in kind unless such a division would prevent proper use of the property or result in a substantial loss of value.<sup>70</sup> In such a case, the property had to be sold and the proceeds divided among the co-owners in proportion to their interests.<sup>71</sup> Co-owners had the right of pre-emption against third parties.<sup>72</sup> These provisions, with the exception of the pre-emption right, are identical to United States law.<sup>73</sup>

A person who acquired another person's property in good faith and created a different object had to surrender the object or reimburse the original owner in exchange for ownership, as the original owner elected.<sup>74</sup> If the creator of the object added substantial value to the property, the original owner did not have the right of election.<sup>75</sup> The manufacturer could elect to assume ownership and reimburse the original owner for the loss of his property.<sup>76</sup> This rule is identical to the general rule in the United States.<sup>77</sup>

The rule was different when the manufacturer acquired the original property in bad faith. In this case, the original owner could elect to assume ownership of the item and compensate the manufacturer for his addition to the value of the property.<sup>78</sup> This rule, in the United States, is different. Under the majority rule, the original owner has the right of ownership of the article and is not required to compensate the trespasser for the increase in value.<sup>79</sup>

Under the 1959 Code, if neither the original owner nor the manufacturer wished to assume ownership, the item had to be sold, the original property owner(s) had to be indemnified and whatever remained belonged to the creator of the object.<sup>80</sup> If the property of several persons had

been acquired and merged or combined in a manner that made separation impractical or possible only by inflicting substantial damage, the final product would be jointly owned by the affected parties.<sup>81</sup> If any of the owners did not wish to participate in the joint ownership, the owner of the property that had the highest value before the combination could elect to buy the interests of the other owners or to have his interest purchased by the other owners.<sup>82</sup>

Special rules governed the unauthorized building of a structure on another's land. One who built on another's land in good faith either had to pay damages, purchase the parcel on which he built or purchase the entire parcel.<sup>83</sup> The owner of the parcel on which the unauthorized construction occurred could demand the purchase of the entire parcel if the remainder of the parcel, sans building, was unusable or if the exercise of a right became impossible or considerably more expensive because of the construction.<sup>84</sup> The rule in the United States is different. The owner of the land owns the building or other improvement placed upon it.<sup>85</sup> In some states, the owner may have to compensate the builder for the increase in value that the parcel has as a result of the improvement.<sup>86</sup> As a practical matter, however, the United States and the Hungarian rule probably have the same impact on ownership. In both cases, the wrongdoer must buy the property from the landowner to retain ownership of the improvement.

One who built on another's land in bad faith faced different legal rules from one who built in good faith. If the construction was in bad faith, the aggrieved property owner could demand demolition of the building or the transfer of the building to him upon payment of compensation to the wrongdoer.<sup>87</sup> The amount of compensation due the wrongdoer was the increase in value that results from the wrongful construction.<sup>88</sup> In the United States, the owner of the land owns the building and has no duty to compensate the wrongdoer.<sup>89</sup>

The Code also recognized a right, called usufruct, which consisted of temporary and permanent use rights in another's property or to the collection of the proceeds produced by an item of property.<sup>90</sup> Usufruct rights could exist in real or personal property.<sup>91</sup> Their maximum permissible length was the life of the owner.<sup>92</sup> The transfer of the property subject to the usufruct did not destroy the usufruct.<sup>93</sup> The owner of a usufruct could not transfer it to a third party<sup>94</sup> and had to register the usufruct in the property register before he had enforceable rights against a bona fide purchaser for value.<sup>95</sup> The usufruct appears to be identical to the common law property interest denominated as an easement in gross.

An owner of real property, as a matter of statutory right, had a right to support from neighboring land for his building(s).<sup>96</sup> This rule is similar to the United States rule which states that an owner of adjacent land cannot take action on his land which deprives the owner of a building on adjacent land of lateral support.<sup>97</sup>

The owner of a parcel of land also had a right to use neighboring land owned by another for the construction, demolition, reconstruction or maintenance of a building on his land, but had to pay compensation to the owner of the neighboring land for its use.<sup>98</sup> There is no similar provision in United States law.

A landowner also had the right to use another's property to eliminate a direct danger to his life, property or the life and property of another, subject to the right of the owner of the used property to compensation for any damages or diminution in value that his property may suffer as a result of its use.<sup>99</sup> This rule, when applied to flood waters, is comparable to rules existing in some of the United States.<sup>100</sup>

If the use of another's property during an emergency benefitted several persons or parcels of

property, and if compensation was due the owner of the property that was used, the burden of the compensation was borne in proportion to the interests risked by the affected persons.<sup>101</sup> There is no comparable rule in the United States.

The owner of a usufruct had to exercise the practices of normal management with respect to the usufruct.<sup>102</sup> He was liable for normal, but not extraordinary, maintenance expenses.<sup>103</sup> Upon return of the usufruct to the property owner, the usufruct owner was liable to the owner of the property for any damages not attributable to normal use of the usufruct.<sup>104</sup> These rules appear to be the equivalent of the rule in the United States prohibiting lessees and licensees from committing waste.<sup>105</sup>

In addition to usufruct, the 1959 Civil Code recognized a use right labelled easement.<sup>106</sup> Easements could be created by agreement or by adverse possession.<sup>107</sup> Although the Code did not formally say so, the examples of easement given in the Code implied that an easement was a permanent use right that was virtually identical to the common law concept of easement.<sup>108</sup> The Code provided that the provisions establishing the right of usufruct also applied to the creation of easements.<sup>109</sup> Thus, it would appear that the examples of easements given in the Code are not all inclusive.

Easements could be lost through non-use. An easement that remained unused for 10 years was extinguished.<sup>110</sup>

#### MODIFICATIONS TO THE PROPERTY RIGHTS ESTABLISHED BY THE ORIGINAL VERSION OF THE 1959 CIVIL CODE

The most significant changes to the property rights set forth in the 1959 Code occurred in 1989, while the Communists still held power.<sup>111</sup> In 1989, the Hungarian parliament adopted three

constitutional amendments. The first amendment established a Constitutional Court.<sup>112</sup> The second added language to the Constitution providing that private and public property enjoy equal protection.<sup>113</sup> The third provided that private property could not be taken without full, immediate, unconditional compensation.<sup>114</sup>

A coalition of non-Communist parties took control of the government after the 1990 elections and amended the Civil Code in 1991. The most significant amendment was the repeal of subsections (2) and (3) of section (3) of the Code. These subsections gave social property "the increased protection of the law."<sup>115</sup> As a result of the amendment, the Code read (and currently reads) "the law protects all forms of property recognized in the Constitution."<sup>116</sup>

The 1991 amendments also repealed certain other sections of the 1959 Civil code that dealt with property rights. These other repealed sections and subsections were as follows:

1. section 111(2), a subsection of the rules describing whether courts could issue remedies that were different from the remedies sought by the litigants when one litigant had built on the other litigant's land;
2. section 121(3), a subsection of the adverse possession rules;
3. sections 131 (1), 135(1), 136(2), all being sections and subsections of the rules governing acquisition of ownership by processing and assembling; and
4. sections 150-154, all being sections of that part of the Code setting forth rules governing use rights.

Hungarian legal commentators have thought that only the repeal of section 3(2)(3) to be a significant change.<sup>117</sup>

In addition to repealing sections and subsections of the 1959 Code, the 1991 amendments to

the Civil Code also added provisions regarding the acquisition of ownership in abandoned and lost property. As a result of the amendments, a person can acquire ownership of abandoned property by taking possession of it.<sup>118</sup> The mere acquisition of possession is insufficient to acquire ownership of lost property. Property found in buildings and vehicles open to the public belongs to the possessor of the premises on which the property is found, provided the true owner does not claim the property within three months.<sup>119</sup> A person who finds property in other locations owns the property one year after he finds it, provided the owner does not claim the property and provided the finder takes those steps the law requires him to take to find the owner.<sup>120</sup> One who makes efforts to find the owner of lost property of substantial value and does not acquire ownership is entitled to a reasonable finder's fee for his efforts.<sup>121</sup>

Property of substantial value whose ownership is unknown must be offered to the state before the finder can claim ownership.<sup>122</sup> If the state claims ownership, the finder is entitled to a finder's fee proportionate to the value of the found item.<sup>123</sup>

The 1991 amendments included an amendment prohibiting the owner of real property consisting of both land and buildings from transferring ownership of the building while retaining the land and vice versa.<sup>124</sup> The amendments apparently contemplate that the owner of raw land can allow another to construct a building on his land without the owner of the land acquiring title to the building. The 1991 amendments added sections to the Civil Code providing that one who constructs a building on land that he does not own has a right of use on the underlying land for the life of the building as well as a preemption right to the ownership of the land.<sup>125</sup> Additionally, the amendment gave the owner of the land a preemption right to the building.<sup>126</sup>

The Hungarian parliament amended the Code again in 1995 and 1997 to eliminate its

silence on the ownership of water, fish and game. The 1959 Civil Code was silent on these subjects and stayed silent after the Communists relinquished power and privatization began. In 1995, however, Parliament spoke on the subject of water, stating that the underground waters, the natural basins of underground waters and the waters and the beds of rivers and natural lakes were to remain under state ownership unless otherwise provided by law.<sup>127</sup> Newly evolved river islands were also state property.<sup>128</sup> In 1997, Parliament spoke on the subject of game, fish, and "useful aquatic animals," stating that these creatures were owned by the State, unless otherwise prescribed by law.<sup>129</sup> A person authorized to exercise fishing rights or catch "other useful aquatic animals" acquires title to the creature upon catching it--*i.e.*, reducing it to his possession.<sup>130</sup> One who has the necessary authorization to catch these creatures owns any creatures caught by an unauthorized person.<sup>131</sup>

#### SOME HYPOTHESES ABOUT THE 1959 PROPERTY RULES AND CONCLUDING REMARKS

The previous description of the 1959 Civil Code demonstrates that the rules of property law adopted by Communist Hungary were almost identical to the rules of property law that existed in the United States. In fact, the Hungarian rules were so close to the rules existing in market capitalist societies, such as the United States, that the Hungarian Parliament found it unnecessary to change the rules after the Communists lost power in 1990 and the country abandoned the Communist system.

What is remarkable about this substantial overlap of rules is that Hungary had no body of common law or statutory law heritage of their own upon which to draw when it formulated these rules in the Civil Code in 1959. Moreover, the initial work on the Civil Code, which contains the

rules, began under the rule of the reformist wing of the Communist Party and continued after the Stalinist wing returned to power. The armed revolt against the Stalinists in 1956 did not derail the project and Party. The country adopted the rules in 1959, one year after executing Imre Nagy for his role in the 1956 revolt. What was going on here?

One possible explanation is that the 1959 Code was part of the post-1956 passive resistance to Soviet domination. There is a superficial attractiveness to this explanation. The post-1956 story of Hungary is indeed a story of passive resistance to Soviet hegemony. The country stayed within the Warsaw Pact, stayed formally Communist, but began (in 1961) to relax planning constraints and gave enterprises freedom of decision making.<sup>132</sup> The popular phrase for this policy is goulash communism. Explaining the 1959 Civil Code, however, as part of the passive resistance to Soviet domination is not convincing. The drafting of the Code began in 1953, prior to the 1956 revolt. The Hungarian Government adopted the Code in 1959, before the advent of goulash communism. It appears that these rules would have existed regardless of the existence of goulash communism.

A second explanation is that the persons drawing up the rules were closet capitalists who secretly subverted the Communist system by drafting capitalist property rules. This hardly seems likely. Given the nature of the Hungarian Communist regime between 1953 and 1959, and in particular the events that occurred after the unsuccessful 1956 revolt, it appears likely that any closet capitalists bent on secretly subverting the Communist system with capitalist property rules would have been swiftly eliminated.

The more likely explanation is that the Hungarian Communist regime saw advantages to the rules embodied in the 1959 Code and adopted them to obtain these advantages. All societies need a set of rules to govern the possession, use and transfer of assets. Societies may differ with respect to

which persons, groups or institutions receive the initial endowments of possession and use rights, but unless society is willing to completely freeze how the possessor of the item uses the asset, and to completely prohibit the transfer of possession and use rights, it must develop rules governing the use and transfer of items. Even if the rules state that the government possesses everything, there will be a need for a rule, for example, which states when the police can use the resources and when the state-employed doctor and hospital can use the resources. There also will be a need for rules that govern the transfer of resources from government agencies to their employees and rules governing the employee's possession, use and transfer of those assets that they receive as compensation for their services. Does the government, for example, use the iron ore to produce police cars or surgical instruments? Can the government doctor transfer the apartment that he receives as compensation for his work to a different person in exchange for a different residence? Can he transfer it to his son or daughter at death?

Some sets of rules are more efficient in making these allocation decisions than other rules. Some allocation rules are easier to enforce than other allocation rules. The decision makers in society will learn that certain rules governing resource allocation and usage leave a bigger surplus to devote to the decision makers' goals than other rules. Thus, there will be a tendency over time for rules governing the possession, use and transfer of resources to evolve towards the most efficient rules regardless of the social structure that society uses to organize itself.<sup>133</sup> A government that owns all resources eventually will discover that the least efficient rule is to allocate the output of the government-owned steel plant among the various government agencies, such as the police and government medical service, by administrative fiat. The most efficient rule is to allow the police and the government medical service to bid for the steel produced by the government-owned steel

plant and to allow the government-owned steel plant to accept the highest bid. Such a government also will learn that in a society characterized by changing technology, the most efficient rules are those which permit government-owned agencies to change the uses of resources and to compensate other government-owned agencies for damages suffered when use rights overlap and conflict.

The point is not that societies in which governments which possess all resources will learn to perform as efficiently as societies in which private individuals own resources. Because the two types of societies have different incentive structures, they well may operate at different efficiency levels even if they had the same set of laws. The point is that the drive for efficiency will tend to produce similar sets of property laws in various societies regardless of how the resource endowment is distributed among individuals and institutions. This hypotheses is consistent with the fact that the property law found in the Hungarian Civil Code of 1959 looks remarkably like the legal rules governing property in the United States.

#### ENDNOTES

1. L. Kecskes. Business Law in Hungary at 39 (1998).
2. Id. at 39.
3. Id. at 39.
4. Id.
5. Id.
6. Id. at 40.
7. Id.
8. Id.

9. *Id.* at 39-40, 43.
10. *Id.* at 39-40, 43.
11. *Id.* at 43.
12. *Id.*
13. *Id.*
14. J. Hoensch. A History of Modern Hungary 1867-1994 at 348 (1996).
15. *Id.* at 202.
16. *Id.*
17. *Id.* at 41.
18. G. Litvan. The Hungarian Revolution of 1956 Reform Revolt and Repression at 32 (1996).
19. *Id.* at 47.
20. *Id.*
21. *Id.*
22. *Id.*
23. *Id.* at 53-54.
24. *Id.*
25. *Id.* at 54-55.
26. *Id.*
27. *Id.* at 58.
28. *Id.*
29. *Id.* at 183.
30. *Id.* at 71; J. Hoensch, *supra*, at 221.

31. J. Hoensch, *supra*, at 221.
32. *Id.* at 222.
33. *Id.* at 106.
34. *Id.* at 103.
35. *Id.* at 108; J. Hoensch, *supra*, at 350.
36. *Id.*
37. PTK (Civil Code). . . 98, 99 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.); L. Kecskes, *supra*, at 66.
38. PTK. . 100 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
39. PTK. . 121(2)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
40. Wash. Const. art. VII, . 1; *Ackerman v. Port of Seattle*, 55 Wn.2d 400, 348 P.2d 664 (1960); *Brown v. Ross*, 38 Wn. App. 777, 689 P.2d 111 (1984); *Benton City v. Adrian*, 50 Wn. App. 330, 748 P.2d 679 (1988).
41. PTK. . . 95, 96 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
42. PTK. . 94 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
43. PTK. . . 117-138 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
44. *See* PTK. . 117 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
45. PTK. . 119 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
46. *See* Riger Miller and Gaylord Jentz. Fundamentals of Business Law at 587-592 (1999)(4th Ed.).
47. PTK. . 117(3) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
48. PTK. . 117(4) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
49. *Id.*
50. *See, e.g.*, Wash. Rev. Code . 65.08.070.

51. PTK. . 125(3)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

52. Id.

53. In re Estate of Niehnke, 117 Wn.2d 631, 818 P.2d 1324 (1991); See Strom v. Sheldon, 12 Wn. App. 66, 70, n. 3, 527 P.2d 1382 (1994); Hamilton v. King Co., 195 Wash. 84, 79 P.2d 697 (1938).

54. PTK. . . 121(1)(2), 123. (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.)

55. PTK. . 122 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

56. Wash. Rev. Code . 4.16.020; Miller v. Anderson, 91 Wash. App. 922, 964 P.2d 365 (1988).

57. PTK. . 121(5) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

58. See Wash. Rev. Code . 4.16.020.

59. PTK. . 140(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

60. PTK. . 140(1) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

61. In re Foreclosure of Liens, 130 Wash. 2d 142, 922 P.2d 73 (1996).

62. PTK. . 141 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

63. PTK. . 142 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

64. Cummings v. Anderson, 94 Wash. 2d 135, 144, 614 P.2d 1283 (1980).

65. Id.

66. PTK. . 143(1)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

67. Id.

68. Id.

69. PTK. . 147 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

70. PTK. . 148 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

71. Id.

72. PTK. . 148(3) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

73. Byrne v. Ackerlund, 108 Wash. 2d 445, 739 P.2d 1138 (1982); Douglas v. Jepson, 88 Wash. App. 342, 348, 945 P.2d 244 (1997).
74. PTK. . 133(1)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
75. PTK. . 13(3) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
76. PTK. . 133(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
77. American Jurisprudence 2d, Accession, . 1 (1994).
78. PTK. . 13(3) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
79. PTK. . . 5, 6 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
80. PTK. . 135 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
81. PTK. . 134 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
82. Id.
83. PTK. . 109(1) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
84. PTK. . 109(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
85. 41 American Jurisprudence 2d Improvements, . 5 (1995).
86. Id.
87. PTK. . 109(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
88. Id.
89. Id.
90. PTK. . 157(1)(2)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
91. PTK. . . 158, 164(1) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
92. PTK. . 157(4) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
93. PTK. . 157(3) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
94. PTK. . 159(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).

95. PTK. . 158(2) (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
96. PTK. . 101(1)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
97. Klebs v. Byung Sik Yim, 54 Wash. App. 41, 44, 772 P.2d 553 (1989).
98. PTK. . 103 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
99. PTK. . 107(1)(2)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
100. See Currens v. Sleek, 138 Wash. 2d 858, 861, n. 1, 138 P.2d 858 (1999).
101. PTK. . 107(3)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
102. PTK. . 159(1)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
103. Id.
104. PTK. . 159(4)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
105. See Watkins v. Restorative Care Center, 66 Wash. App. 178, 180, 831 P.2d 1085 (1992).
106. PTK. . 166 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
107. PTK. . . 166(1), 168(2)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
108. PTK. . . 166, 167 (1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
109. PTK. . 168(1)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
110. PTK. . 170(2)(1959)(ILS Nemzetkozi Fordito Szolgalat Kft trans.).
111. L. Kecskes, supra, at 35, 45.
112. Id.
113. L. Kecskes, supra, at 45.
114. L. Kecskes, supra, at 45; A Magyar Koztarasag Alketmánya (Const. of Hungary), . 113(1).
115. L. Kecskes, supra, at 45.
116. Id.

117. See Id.
118. Act XIV of 1991, . 7.
119. PTK. . 129(2) (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
120. PTK. . 129(1)(2) (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
121. PTK. . . 130, 131 (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
122. PTK. . 132(1) (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
123. PTK. . 132(2) (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
124. Act XIV of 1991, . 15(3); PTK. . 113 (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
125. Act XIV of 1991, . . 5, 9; PTK. . . 97(3), 155 (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
126. Act XIV of 1991, . 5; PTK. . 97(3) (ILS Nemzetkozi Fordito Szolgalat Kft trans.).
127. Act LVII of 1995, . 3.
128. Id.
129. Act LI of 1997, . 53(3).
130. Id.
131. Id.
132. J. Hoensch, supra, at 236.
133. This point is simply a variation of the academic debate over whether competition among regulatory regimes leads to a race to the bottom or a race to the top. See R. Posner. Economic Analysis of Law at 306-307 (1977)(2d ed.).