



GOVERNING INHERITANCE STATUTES
AFTER THE ENTRY INTO FORCE
OF EU SUCCESSION REGULATION

GOINEU



This Project is funded
by the European Union's
Justice Programme 2014-2020

Réception et modalités d'application du droit étranger dans le règlement « successions »

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Propos introductifs

Le contexte d'application de la loi étrangère

1. Diversité des droits nationaux

- En droit international privé : scission / unité de la succession
- En droit interne :
 - variété des droits des successions nationaux
 - diversité des modèles familiaux

2. Principes directeurs du règlement « successions »

- Principe d'unité
 - unité de la succession
 - coïncidence entre autorité compétente et loi applicable – spécificité du notaire
- Faveur à l'anticipation successorale
- Faveur à la continuité du traitement des successions



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I/. Recherche de coordination lors de l'application de la loi étrangère

A/ Lors de la désignation de la loi étrangère

- En cas de *professio juris* : validité et portée du choix
- En ce de désignation objective : le renvoi (art. 34)

B/ Lors de la mise en œuvre de la loi étrangère désignée

- L'adaptation : le cas des droits réels (art. 31)
- La coordination : difficultés d'articulation loi du for / loi étrangère
Exemples : administration de la succession (art. 23 et 29)
option successorale (art. 28)



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II/. Réduction des cas d'éviction de la loi étrangère désignée

A/. Intervention de l'ordre public successoral du for

- Les lois de police du for (art. 30)
- L'ordre public international du for (art. 35)
 - Cas de la réserve héréditaire
 - Cas de la prohibition des pactes successoraux
 - Autres hypothèses

B/. Intervention de l'ordre public familial du for ?

- Résolution des questions préalables
- Incidence du certificat successoral européen



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Reception and Application Modalities of Foreign Law according to the EU Regulation

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Introductory remarks

Context of foreign law application

1. Diversity of national laws

- Private international law : division / unity of the succession
- Internal law :
 - diversity concerning the laws on successions
 - variety of conceptions of the family

•2. Guiding principles of the Regulation

- Principle of unity
 - unity of the succession
 - unity of forum and jus – specific situation of the notaries
- Promotion of estate planning
- Promotion of the continuity of the succession



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I/. Searching for coordination in the application of foreign law

A/ Designation fo the foreign law applicable

- In case of a choice of law : scope of the choice
(e.g. States with more than one legal system)
- In case of objective designation of the law : the renvoi (art. 34)

B/ Application of the foreign substantial law

- Adaptation : rights in rem (art. 31)
- Coordination : articulating lex fori / foreign law
Example : administration of the succession (art. 23 & 29)



II/. Reducing the cases of eviction of the foreign law

A/. Public policy of the forum in matters of succession

- Mandatory rules (lois de police) of the forum (art. 30)
- Ordre public of the forum (art. 35)
 - Reserved portion of the estate
 - Prohibition of pacts on a future succession
 - Other situations

B/. Public policy of the forum in family matters ?

- Preliminary questions (e.g.: family relationships)
- Influence of the European certificate of succession

