

DIVORCE: TOWARDS A COMMON INTERNATIONAL LEGISLATION

For any questions :

ROCHE & Cie

40, Rue du Président Herriot
69 001 LYON

☎ : +33 4 78 27 43 06

@ : rochecie@cabinet-
roche.com

Marriage in a foreign country, marriage with a person of different nationality ... what are the consequences on the matrimonial regime, what is to say the economic relations between the spouses?

It is important to know and anticipate these rules because they have an impact in a divorce, a death but also during the marriage.

They determine the powers of each one in terms of administration and disposition of property belonging to one and / or the other of the spouses but also the composition of their respective assets.

In many countries, it is possible to choose by a marriage contract or a "pre or post marriage agreement" one's matrimonial regime. In France, if the spouses do not conclude a marriage contract, they are married under the regime of the legal community. They can decide to establish a contract, most often a contract of separation of property. In the event of divorce in an international context, many difficulties of interpretation and application of the national rights appear. It is the case, for example, when:

- The two spouses do not have the same nationality;
- The spouses are married without a contract in a country different from their current place of residence;
- The divorce takes place in a country different from that of the law applicable to their matrimonial regime.
- The spouses hold properties in foreign countries

For example, in the case of spouses of French and Belgian nationality who married in Las Vegas without a marriage contract, then lived in Brazil for 10 years, to finally start divorce proceedings in France, many questions will have to be resolved:

- What is their matrimonial regime? The French, American Brazilian legal regime?

- How will the real estate held by the spouses in Brazil be divided?

Is it the Brazilian law that will apply or the French law?



These questions are sources of conflict and often, the laws of different countries may hold concurrently. To complicate the analysis, it is possible to provide that some immovable property will be subject, in case of divorce, to the law of situation of the building

During a divorce, the application of all these rules is very random.

To simplify and unify the rules, within the European Union, Council Regulation 2016/1103 of 24 June 2016 aims to implement enhanced cooperation in the field of jurisdiction, applicable law, recognition and enforcement of matrimonial property decisions.

This regulation will be applicable for weddings celebrated from 29 January 2019 and will concern the following countries: Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden.

It will make it possible to fix the matrimonial regime applicable to a marriage by choosing the law of the common nationality of the spouses or that of their residence.

In view of the difficulty of determining the law applicable to the matrimonial property regime in an international context, we can only advise a complete analysis of the situation and of the inheritance of the spouses to be able to make a voluntary designation of law applicable by marriage contract..



RENT REGULATION IN PARIS

Established by the Alur law of March 24, 2014, and in force in the French capital since August 1, 2015, the rent regulation system provides that at the signing of a new lease or at a renewal, the rent of a dwelling must not exceed 20% of a reference rent fixed by a prefectural decree, nor may it be less than 30%. Each year, a prefectural decree fixes the rent ceilings for empty and furnished rental contracts which are used as principal residence of the tenant are signed between August 1 of the current year and until July 31 of the following year.

Objective of this provision: stop the rise in rents.

Quickly, associations, such as the UNPI (National Union of Real Estate Owners), have multiplied the recourses to cancel these orders.

By a decision of the Administrative Court of Paris dated November 28, 2017, the decrees implementing the rent regulation in Paris were canceled, one month after the Administrative Court of Lille made a similar decision.

Judges do not question the provision but its geographical application. They believe that in order to comply with the law, the measure should have covered the entire Paris agglomeration, the 412 municipalities in the region, and not the only capital.

The mayor of Paris has denounced the judgment of the administrative court which may lead to an increase in rents and called on the government to appeal as for the Lille decision.

However, the decision of the court being enforceable, from Wednesday, November 29, 2017, there is no longer any rents regulation in the capital.



Paris and Lille, exceptions

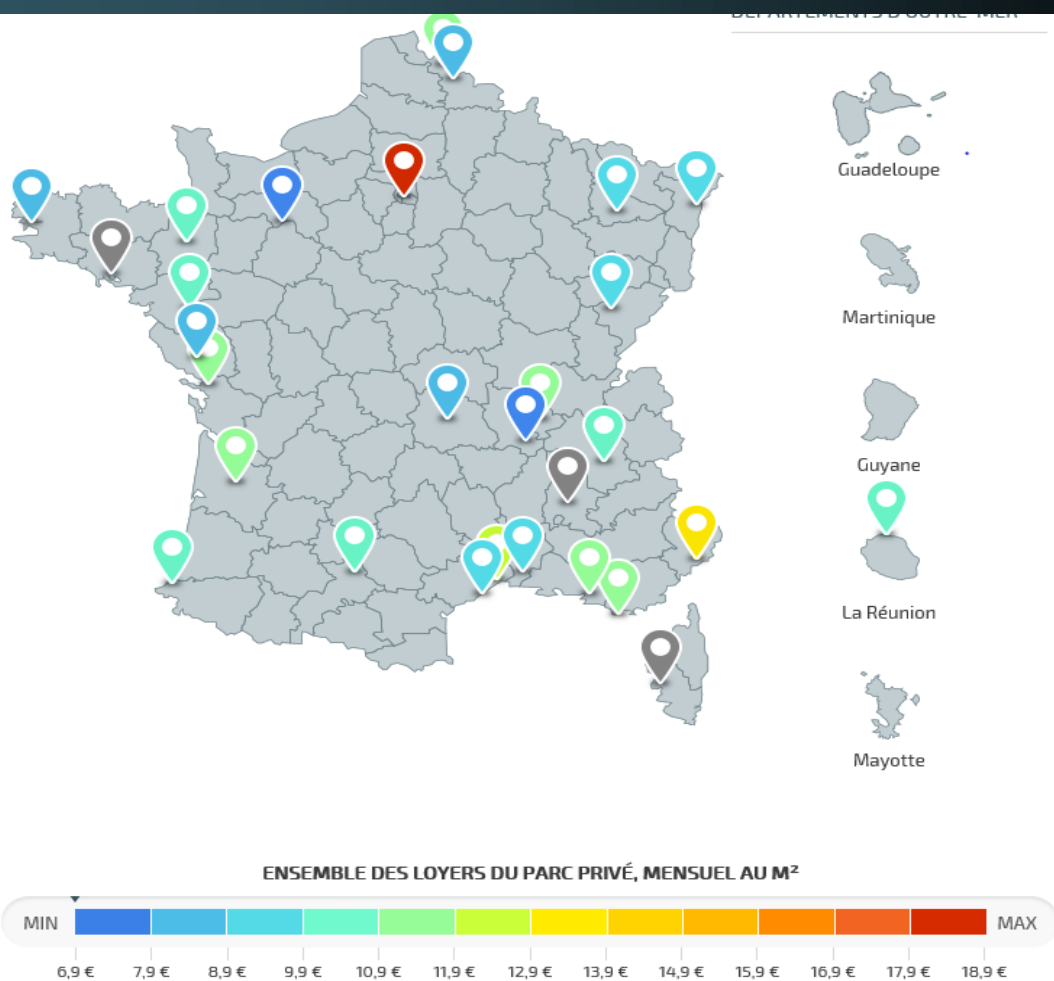
The rents framework, was to concern 28 agglomerations. But of the 28 agglomerations concerned - Bordeaux (Gironde), Lyon (Rhône), Marseille (Bouches-du-Rhône), Nantes (Loire-Atlantique), Toulon (Var) ... - only Paris and Lille set up the provision. Grenoble (Isère) was to follow. The other agglomerations have created a rent observatory (see map below).

However, with the decisions of the Administrative Court of Paris and Lille, no more municipality is covered by this provision.

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Roche & Cie

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Observatoire en construction/données non disponibles

Source : www.observatoires-des-loyers.org

French Real estate prices in November 2017

In short, **November 2017**



3 490 €

PRICE OF THE M² SIGNED IN FRANCE, in the ancient buildings



-1,5 %

PRICE OF THE M² SIGNED EVOLUTION IN FRANCE, in the ancient buildings, at 3 months



3,8 %

TRADING MARGIN IN THE OLD BUILDINGS, all goods combined



-5 %

VOLUME OF TRANSACTIONS, sliding termly evolution