

**MARRIED AFTER 1<sup>ST</sup> SEPTEMBER 1992?  
HABITUAL RESIDENT IN FRANCE?  
THIS APPLIES TO YOU.**

The Hague Convention of 14<sup>th</sup> March 1978 which came into force in France on 1<sup>st</sup> September 1992 introduced a concept which is not well known and little publicised, and which is capable of wide spread and possibly devastating consequences for the married couples involved.

To explain: If you were married after the 1<sup>st</sup> September 1992 when the Convention came into effect, the law applicable to your marital property (i.e. the way in which you own property between you) may change automatically and without your knowledge if you establish your habitual residence in France for a period in excess of 10 years. Next year sees the first year where potentially any couples could be caught out. Subsequently, over the next few years, the number of English couples who will become affected will be significant with the result that unless positive steps are taken by the couple, at the end of the 10 year period in France, they will automatically become subject to the French legal regime of community property and acquisitions. This new regime will apply for all future years.

This means that certain assets including assets in the UK may be treated as owned by the couple in equal shares even if they have not each contributed equally to the purchase price or, even where only one spouse was named on the title deed or contract note.

If the couple is aware of the situation, then positive steps can be taken to avoid their separate property owning rights from being dissolved. If they do nothing, on a divorce one party may receive less than they would otherwise have been entitled; in the event of death, the surviving spouse may find he or she has to share assets with the children which he or she believed to own outright. Even if any disastrous consequences for the surviving spouse are avoided due to good luck and circumstances, the administration of an Estate or a divorce will become doubly complicated and delayed due to the Notaire having to liquidate two, if not more, successive matrimonial regimes.

**So what to do?**

If you are concerned by the automatic change of regime brought about by the Hague Convention (marriages after 1<sup>st</sup> November 2002), what can you do?

1. You should establish your initial matrimonial regime which for most English couples having lived in England will be that of English law, which is considered by France to be equivalent to "separation de biens" or separated estates.
2. Assuming this to be the case, and you wish to maintain the status quo, you can officially designate the law which is to apply to you in a formal deed which will confirm that the original (English) system is to apply throughout your marriage despite your current residence in France.

One thing more, this is a case where simply doing nothing is not an option.

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