

Home>Family matters & inheritance>Inheritance>Adapting rights in rem

Adapting rights in rem

Belgium

#### 1 Which are the rights in rem that could arise from a succession under the law of this Member State?

The rights *in rem* that can arise from a succession under Belgian law are the right of ownership and its subdivisions, i.e.:

- usufruct (Article 745*bis* of the Civil Code (*Code civil*));
- use and habitation (Article 625 of the Civil Code);
- easement (Article 637 of the Civil Code);
- building and emphyteusis (long lease rights).

#### 2 Are these rights in rem recorded in a register of rights in immovable or movable property and, if so, is such recording compulsory? In which register(s) are they recorded and what are the registration requirements and procedure?

When a person becomes the holder of a right of ownership or one of its subdivisions due to this right being transferred on death, that person becomes the *erga omnes* holder. In other words, when such a right is transferred on death (succession or will), this transfer does not have to be recorded in a property register. Article 1 of the Mortgage Law (*loi hypothécaire*), which specifies the cases in which the transfer of a right *in rem* must be registered in order to be binding on third parties, does not refer to this case.

#### 3 Which effects are linked to the registration of the rights in rem?

N/A

#### 4 Are there specific rules and procedures in place for the adaptation of a right in rem to which a person is entitled under the law applicable to the successions in case the law of the Member State in which the right is invoked does not know such right in rem?

At this stage, no specific rules or procedures have been laid down for the adaptation of a right *in rem*.

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