

AL L OCATI ON S DOCTORAL ES 2024 - N OTE - REC RU TEMEN T OF DOCTO RAN TS

**SUBJECT: Doctoral grants 2025 - Note - Recruitment of doctoral students**

<b>Employment information</b>		
	Organisation / Company	University of Rouen Normandy
	Area of research	Private international law and family property law
	Researcher profile	First-stage researcher (R1)
	Country	France
	Deadline for applications	<b>Friday 6 June 2025, 12 noon</b> Send the single document (PDF) by e-mail to the DROIT NORMANDIE doctoral school. The acknowledgement of receipt will not be considered as proof of the admissibility of the application.
	Type of contract	Temporary
	Employment status	Full time
	Is the position funded by the EU research framework programme?	NO
	Is the job linked to a staff position within a research infrastructure?	NO

<b>Description of the offer</b>		
	Description of position and doctoral project (targeted and funded)	Financed thesis subject. <b>Matrimonial benefits.</b> <b>Study of domestic law and private international law.</b>

		<p><b>A brief explanation.</b></p> <p>A matrimonial benefit is an advantage that a spouse derives from a marriage contract and that breaks property equality. Thanks to the principle freedom of matrimonial agreements, these advantages have become an important part of inheritance strategies. However, matrimonial benefits do not have their own legal regime. It is true that the legislator has intervened, most recently with the Act of 31 May 2024 which created the concept of matrimonial indignity. However, the debate has not yet been exhausted in domestic law, as questions remain and continue to oppose the doctrine. Above all, the absence of a specific qualification has an impact on private international law.</p> <p>In domestic law, a matrimonial advantage is treated neither as a gift nor as an inheritance. So how should it be treated in private international law? Should it be included in the category of effects of marriage? To the category of matrimonial property regimes? To a sui generis category? The question is made all the more complex by the fact that account must now be taken of the autonomous characterisations derived European sources: the characterisation in domestic law will not necessarily be that in private international law.</p> <p>The aim of the subject is therefore to legally qualify matrimonial benefits in domestic law and private international law order ensure their effectiveness and morality.</p>
<b>Requirements</b>	Salary placement	2100-2300€ / month
	Eligibility: subject-specific prerequisites	<p>Eligibility conditions vary according to project leader :</p> <p>To apply for the thesis project funded by the Université de Caen Normandie, candidates must hold a <b>Master's degree in private law</b> or be in the process of obtaining one as at 1 January 2010.</p> <p>Sept. 2025. A <b>distinction</b> (AB, etc.) must have been obtained in Master 1 or 2.</p> <p>In addition, candidates must have taken <b>courses in private international law and family property law</b> during their university studies, at both the Master 1 and Master 2 level.</p>

	Admission	<p>After the candidate has been <b>interviewed</b> by a panel of judges, on <b>Tuesday 10 June 2025, starting at 13:00</b>.</p> <p><b>h. 30</b>, and after <b>deliberation</b> by the Restricted Council of the Law Normandy ED, will be admitted to prepare a thesis devoted to matrimonial benefits, a study of domestic law and private international law, the student who meets the following admission requirements:</p> <p>(1) Hold a Master's degree in law (private or public) as at 1 October 2025, with honours, and have followed a course of study in line with the funded thesis project.</p> <p>(2) Be able to position yourself in relation to the thesis topic to convince people of your suitability to undertake doctoral research on the subject in question.</p> <p>(3) Be able to present, during the <b>audition</b>, their academic background, the merits of their analysis of the subject and the timetable for their research over the 3 years of the doctoral contract. Experience as a tutor or supervisor in law is a strong asset.</p> <p>(4) have written a <b>dissertation in private law</b> on an issue relating to private international law in family law (property or non-property), in a form that meets academic standards. If the Master's degree is in progress, the candidate must present and justify the subject of the dissertation, a detailed argument, avenues of research, the method followed and a bibliography.</p>
<b>Applications</b>		
		<p>The application must be submitted in the form of a <b>single PDF document</b>, with numbered pages. The entire document must contain :</p> <p>(1) A <b>covering letter</b> briefly describing the candidate's research interests and explaining the reasons for applying for the thesis project.</p> <p>(2) A description of the 3-year <b>research programme</b>.</p> <p>(3) A <b>curriculum vitae</b> (CV).</p>

		<p>(4) <b>Copies</b> of , diplomas and documents attesting to the completion of courses and the award of a master's degree in law (private or public).</p> <p>(5) The <b>contact details</b> of two referees or people in a position to recommend the candidate for the doctoral research project targeted and funded.</p> <p>(6) A <b>research dissertation</b> on a subject related to a traditional or topical issue in private international law (minimum length: 40 pages).</p>
<b>Place(s) of work</b>		University of Rouen (Normandy, France) UFR DESP 3 avenue Pasteur, 76 000, Rouen
<b>Where to find us</b>		Mail of the doctoral school : <a href="mailto:gilles.raoul-cormeil@unicaen.fr">gilles.raoul-cormeil@unicaen.fr</a>
<b>Contact</b>		Mail of the thesis supervisor : <a href="mailto:johanna.guillaume@univ-rouen.fr">johanna.guillaume@univ-rouen.fr</a>



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NORMANDIE



## DOSSIER UNIQUE DE CANDIDATURE AUX ALLOCATIONS DOCTORALES D'ETABLISSEMENT ET ALLOCATIONS DOCTORALES 100% REGION NORMANDIE

For this 2025 campaign, Normandy's universities and engineering schools are once again setting up a **single** submission and evaluation process for institutional grants and 100% regional grants, together with a single submission and evaluation timetable.

**Please tick at least one box (you may tick both boxes if you are making two submissions).  
The request concerns :**

☒ establishment allowance

☐ 100% regional allocation

Please complete the common section (pages 2-3) for all applications . In the case of an application for a regional allowance (or a double application), also complete the corresponding section (pages 4-6).

**Deadline for online submission on the Normandie Université platform: January 24, 2025 at 1 p.m.**

**COMMON PART: to be completed in all cases (submission to the establishment or region)**

## **INFORMATION ABOUT THE THESIS**

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Thesis acronym	Title	Employing establishment	Host laboratory
AV-MAT-Right	Matrimonial benefits. Study domestic law and private international	Rouen Normandy University	CUREJ

5 keywords associated with the project :

Justice patrimoniale - Freedom of matrimonial agreements - Succession - Foreign situations - European Union standards.

### **Information about the host laboratory :**

Name of host laboratory (name, acronym, UR/UMR number): Centre universitaire rouennais d'études juridiques (CUREJ-EA 4703)

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Équipe de recherche (si existante) : /

If laboratory on several sites, specify location: / Address :

N° - Street name: 3 avenue Pasteur Postal

code: 76000

City : Rouen

### **Doctoral school to which the thesis supervisor belongs: Droit Normandie Calendar :**

Thesis project period :

From 01/09/2025 to 01/09/2029, i.e. a 48-month project.

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## **RÉSUMÉ VULGARISÉ ET DIFFUSABLE / ABSTRACT**

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### **A summary of the project in French and English (maximum 4000 characters each):**

*Description intended for an uninformed/new audience on the subject. This paragraph may be used in communication documents if the project receives funding.*

#### French version

A matrimonial benefit is an advantage that a spouse derives from a marriage contract and that breaks the property equality. For example, a couple marries under the community property regime and the husband contributes to the community a house that already belonged to him before the marriage.

the marriage: whereas the house was the spouse's own property, the contribution to the community makes it a joint asset. Another example: the marriage contract contains a clause providing for unequal sharing of the community property, which will benefit the surviving spouse in the event of his or her predecease. There are many other examples: thanks to the principle of freedom of matrimonial agreements, these advantages have taken on vital importance in wealth devolution strategies.

However, matrimonial benefits do not have their own legal regime. The question therefore arose as to whether they could be treated in the same way as gifts or inheritances, so that the corresponding legal rules would apply. The answer is no: a matrimonial advantage is neither a gift nor an inheritance. We therefore know what a matrimonial advantage is not, but we do not know what it is, because the definition given by the Civil Code is controversial and the legislator has not created a specific regime for it. It has merely provided answers to certain questions.

The matrimonial advantage breaks property equality, which poses no difficulty when it is agreed, .e. at a time the couple share feelings and are organising a life together with an open-ended perspective. But what happens to the matrimonial benefit one of the spouses dies? What happens if the spouses divorce? The Civil Code provides some answers, but does not envisage a dedicated legal regime for matrimonial benefits.

A new answer comes a recent law: the law of 31 May 2024 adopted to inequalities between men and women. In particular, this law answers the following question: should a spouse who kills his or her partner benefit from advantage he or she had granted? Surprising as it may be, the previous legal vacuum led to an affirmative answer. As a matrimonial advantage was neither an inheritance nor a gift, it was not subject unworthiness to inherit or revocation on grounds of ingratitude. The matrimonial indignity created by the law of 2024 corrects this shortcoming in order to punish the violent spouse.

While the contours of matrimonial benefits are gradually taking shape in domestic law, this is not the case in international law. If at least one of the spouses has a foreign nationality, if at least one of the spouses lives abroad or if the spouses have lived abroad, or more generally if the personal or property situation of the spouses is not entirely linked to France, a law other than French law may be applicable. In fact, a situation that has a link with a foreign country is an international situation: in this case, both the judge and the notary may apply foreign law if it is competent. How do you know whether a foreign law has jurisdiction? By applying the rule of private international law designed to designate the competent law (French or foreign). Which rule of private international law should be applied? To find out, you first need to define the legal nature of the matrimonial benefits.

For a long time, private international law was characterised in the same way as domestic law, but supranational sources have changed . For example, there is a European regulation on matrimonial property regimes, another on contracts (and therefore gifts) and yet another on succession. The coherence of European Union law requires a uniform classification across the different Member States, under the supervision of the Court of Luxembourg. What classification should prevail when the situation is international? Could the jurisdiction of a foreign law lead to the dismissal of the matrimonial unworthiness created by the French legislator? More generally, what is at stake here is

is to legally qualify matrimonial benefits in domestic law and private international law in order to ensure their effectiveness, on the one hand, and their morality, on the other.

#### English version

A matrimonial advantage is a benefit that a spouse derives from a marriage contract and that breaks the property equality. For example, a couple marries under the community property regime, and the husband contributes to the community a house that already belonged to him before the marriage: whereas the house was the husband's own property, the contribution to the community makes it common property. Another example: the marriage contract contains a clause providing for unequal sharing of the community property, which will benefit the surviving spouse in the event of the predecease of his or her spouse. There are many other examples: since the law gives spouses a great deal of freedom, these advantages have become of vital importance in wealth devolution strategies.

However, matrimonial benefits do not have their own legal regime. The question therefore arose as to whether they could be treated in the same way as gifts or successions, so that their legal rules would apply. The answer is negative: a matrimonial advantage is neither a gift nor an inheritance. We therefore know what a matrimonial advantage is not, but we don't know what it is, because the definition given by the Civil Code is controversial, and the legislator has not created a specific regime for it. It has merely provided answers to certain questions.

The matrimonial advantage breaks the patrimonial equality, which poses no difficulty when it is consented to, i.e. at a time when the couple share feelings and organize a common life in an open-ended perspective. But what happens to the matrimonial benefit when one of the spouses dies? What happens if the spouses divorce? The Civil Code provides some answers, but does not envisage a legal regime dedicated to matrimonial benefits

A new answer comes from a recent law: the law of May 31, 2024 adopted to reduce inequalities between men and women. Among other things, this law answers the following question: should a spouse who kills his or her partner benefit from the advantage he or she had granted? Surprising as it may be, the previous legal vacuum led to an affirmative answer. As a matrimonial advantage was neither an inheritance nor a gift, it was not subject to either indignity of succession or revocation for ingratitude. The matrimonial indignity created by the law of 2024 corrects this shortcoming, with the aim of punishing the violent spouse.

While the contours of matrimonial benefits are gradually taking shape in domestic law, this is not the case in international law. If at least one of the spouses has a foreign nationality, if at least one of the spouses lives abroad or if the spouses have lived abroad, or more generally, if the personal or property situation of the spouses is not entirely linked to France, a law other than French law may be applicable. In fact, a situation that has a link with a foreign country is an international situation: in this case, both the judge and the notary can apply foreign law if it is competent. How do you know whether a foreign law is competent? By applying the rule of private international law designed to designate the competent law (French or foreign). Which rule of private international law should be applied? To find out, you first need to define the legal nature of the matrimonial benefits.

For a long time, the qualification used in private international law was the same as in domestic law, but supranational sources have changed this. For example, there is a European



regulation on matrimonial property regimes, another on contracts (i.e. gifts) and yet another on succession. To ensure the coherence of European Union law, the various member states must be uniformly classified, under the supervision of the Court of Luxembourg. What classification should prevail when the situation is international? Could the jurisdiction of a foreign law lead to the dismissal of the matrimonial indignity created by the French legislator? More generally, the issue at stake here is the legal characterization of matrimonial benefits in domestic and private international law, in order to ensure both their effectiveness and their morality.

## PRESENTATION OF THE PROJECT :

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**Context and objectives (maximum 2 pages):** specify whether the research is incremental (continuation, reinforcement of an existing theme) or innovative (new subject), local-national-international positioning, bibliography.

The subject is completely innovative in its private international law aspect. In , there is no research work on the question of matrimonial benefits in the presence of a foreign element.

The situation is different from the point of view of domestic law, since much has been written (theses, articles) on matrimonial advantage.

Nevertheless, the proposed topic covers both aspects: domestic and international. Why is this?

Firstly, because despite the existence of writings in domestic law, there is still no legal regime for matrimonial advantage. In fact, it is even difficult to identify, to the extent that people still wonder whether or not a particular procedure constitutes a matrimonial advantage. Yet the principle of freedom of matrimonial agreements leads to the development of matrimonial advantages. There appears to be a gap between the freedom that the law confers on the spouses and the consequences that result when the spouses choose to grant each other a benefit that is not a liberality.

Secondly, because the legislator recently intervened in this area in a law designed to preserve equality between men and women, revealing that behind the technical aspect of the matrimonial advantage lie other issues. Matrimonial advantage is not just a mechanism for breaking property equality, disinheriting one's children by escaping the reserved portion of an estate, or organising inheritance strategies. The matrimonial advantage "comes under the *affectio conjugal*is": it is the expression of a matrimonial will in terms of property. The reasons why a marriage ends, and the manner in which it , cannot remain unaffected by the advantage granted during the happy days. The legislator has recently taken this into account by creating matrimonial indignity, parallel to the traditional indignity of succession. This legislative development raises questions: are there any further legislative developments in this area? If so, what direction should they take? As an instrument in the hands of the spouses, should not matrimonial advantage become an instrument in the hands of the legislator to ensure equality between the spouses and protection of the interests of the family? Beyond these questions, it is the balance between freedom, on the one hand, and the protection of substantial values that the State considers vital, on the other, that is at stake.

Finally, international law has long been the projection of domestic law into the international order. Even if supranational sources and their development make this statement less and less true, the fact remains that the prism of domestic law is necessary to project the mechanism onto the international scene. More than just French domestic law, it is the domestic law of the Member States of the European Union that will have to be examined to see what approach to matrimonial advantage is adopted by the different legal systems.

An analysis of domestic law (texts and case law solutions) and a study of comparative law will make it possible to propose a qualification in private international law. At first sight, one may hesitate between several qualifications.

Matrimonial benefits could fall under the category of matrimonial property regimes, in which case they would be subject to Regulation 2016/1103 of 24 June 2016.

They could also fall into the category of gifts, in which case they would be governed by the "Rome I" Regulation of 17 June 2008 as regards the applicable law and the "Rome II" Regulation as regards the applicable law.

"Brussels I bis" with regard to international jurisdiction and the circulation of decisions.

They could still fall into the category of successions, in which case Regulation 650/2012 of 4 July 2012 would apply.

It should be added that matrimonial benefits can be split up. One matrimonial advantage could be classified as an inheritance, while another would be classified as a gift.

It should also be noted that one solution might be to opt for a *sui generis category*, which would mean that no pre-existing rules of private international law would be applicable. Tailor-made rules will have to be created for this new category.

Matrimonial benefits are exempt from seizure under domestic law, in particular because of their heterogeneous nature, and even more so under private international law. However, the notary, as advisor to the parties and drafter of deeds, has to make a decision. Faced with an international situation, he cannot directly apply French law. They must seek out the applicable law or incurring liability. He must therefore make a decision and select the text or rule that seems most appropriate. Without certainty...

The risk is that the deed will be annulled: if a case is brought before a court and the rule applied by the notary is not the one chosen by the court, the will of the parties and the organisation of their assets will be thwarted.

The aim of the subject is to identify the different types of matrimonial advantage, to analyse them in French law and in comparative law, in order to propose a qualification in domestic law and in private international law, and to identify the relevant legal rules. The work carried out will thus be able to guide the notary, the judge and the legislator, with the ultimate objective of legal certainty and equality for the spouses in the event of a breach of their property equality.

#### Bibliography (extract) :

Pol Robert, *Nature juridique des avantages matrimoniaux*, Nancy Thesis, 1914;  
Fr. Lucet, *Des rapports entre régime matrimonial et libéralités entre époux*, Th. Paris II, 1987 ;

A. Tisserand-Martin, "Réflexions autour de la notion d'avantage matrimonial", in *Ét. J. Béguin*, Litec, 2005, 753.

B. Beignier, "Qu'est-ce qu'un avantage matrimonial?", in *Ét. B. Oppetit*, Litec, 2009, 33 s. ;

Q. Guiguet-Schiele, *La distinction des avantages matrimoniaux et des donations entre époux*, Dalloz, coll. Nouvelle bibliothèque de thèses, 2015.

N. Allix, "L'identification de l'avantage matrimonial, analyse à partir de la jurisprudence récente", LPA 26 mars 2021, n° 159, p. 7.

**Detailed project** (scientific details on the subject, questions or issues addressed, programme and planned timetable) and prospects for the team/laboratory (3 pages maximum) :

Issues addressed:

Article 1527(1) of the Civil Code provides that "the advantages that either spouse may derive from the clauses of a community contract, as well as those that may result from the commingling of movables or debts, are not regarded as gifts". Any matrimonial advantage necessarily results a marriage contract, but are all the benefits resulting from the matrimonial regime matrimonial advantages? Case law and the majority of legal writers consider that there can be no matrimonial advantage under a legal regime of community acquests. But not everyone shares this view, which stems from the interpretation of article 1527, paragraph 2, according to which "simple profits resulting from joint work and savings made on the respective, albeit unequal, incomes of the two spouses are not considered to be an advantage made to the prejudice of the children of another marriage".

In reality, the difficulty arises from the fact that the definition article 1527 is not really a definition at all. To this must be added difficulties relating to the concept of "advantage". Is the matrimonial advantage the profit that each of the spouses derives from the matrimonial property regime, or is it simply the difference between the profits that each derives?

In some cases, the matrimonial advantage is assessed globally, i.e. by taking into account all the effects of the matrimonial property regime: this is the "global" advantage. This method is used in the event of death to calculate the single benefit to be checked for exceeding the available portion in the context of an action for retrenchment. In other cases, the matrimonial advantage is appraised in a particular way, i.e. clause by clause, without taking into account all the effects of the regime: this is the "particular advantage. Ultimately, it is the regime that guides the determination of the matrimonial advantage. As a result, it can sometimes be difficult to identify a matrimonial advantage.

This difficulty is compounded in private international law. In this area, it is not possible to start from the rule of law, since it is necessary to begin by designating the law applicable to the situation which has a foreign element. Several supranational sources applicable to matrimonial benefits may be mentioned. These include European Regulation no. 2016/1103 of 24 June 2016 applicable to matrimonial property regimes, European Regulation no. 650/2012 applicable to succession (the same applies to the Hague Convention of 14 March 1978 on the law applicable to matrimonial property regimes) and the Rome 1 and Brussels 1 bis regulations applicable to civil obligations (gifts).

International texts contain no definition of matrimonial advantage and, to tell the truth, the very notion matrimonial advantage is invisible in the provisions and recitals. In practice, however, matrimonial advantages are very common: there is nothing rare about them!

One of the major objectives of private international law is the predictability of solutions. As for the patrimonial advantage, it must be integrated into an overall strategy to guarantee the financial security of the spouses and the preservation of the family patrimony. How can this predictability be ensured, how can an effective strategy be put in place without knowing which law is applicable in the presence of a foreign element?

The unpredictability of the situation of spouses in an international context draws attention to the need to protect their legitimate expectations, particularly with regard to matrimonial benefits. This could be done by various means, such as harmonising existing rules or creating a conflict rule dedicated to the issue.

This involves a study of comparative law conducted at two levels. Both a comparative study of the rules of domestic law, in order to understand how the Member States of the European Union treat matrimonial advantage within their legal systems. Also a comparative study of the rules of private international law of the same States, in order to see whether the international qualification is the simple projection of the domestic qualification in the international order. It will also be necessary to consider whether the characterisation that emerges is an autonomous one, confined to the implementation of European regulations, or whether it can be extended to the application of common private international law. It will be necessary to ask whether the qualification can be unique or whether it will have to be broken down according to the model of domestic law.

Planned programme:

September 2025 to September 2026: Reading and comparative law studies

October to December 2026: Construction of detailed plan

From January 2027: drafting of Title 1 of Part 1

From September 2027: drafting of Part 1, Title 2

From June 2028: drafting of Part 2, Title 1

From January 2029: writing of title 2 of part 2

September 2029: submission of thesis

End 2029: defence

Outlook for the laboratory :

CUREJ encourages the development of its members' research around a number of themes, including heritage and international, European and comparative law.

The thesis project submitted is perfectly in line with these two themes:

"Les avantages matrimoniaux. A study of domestic law and private international law".

**Actions planned as part of the dissemination Scientific, Technical and Industrial Culture (STIC) in addition to the Fêtes de la Science actions (1 page maximum)**

The doctoral student will be able to present the subject at the "Three minutes for a thesis" or "My thesis in 180 seconds" event, which enables doctoral students to present their thesis in simple terms to a diverse audience.

## PROJECT ENVIRONMENT

### Thesis supervisor

Full name: Guillaum  Johanna

Institution / Organisation :  
Science, University of Rouen Normandy

Faculty of Law, Economics and Political

**A reasoned opinion from the thesis supervisor** on the proposed research, with regard to the scientific and technological objectives pursued and their place in the research guidelines of the host laboratory:

I find the subject doubly interesting. From a domestic point of view, the question of matrimonial benefits is certainly a classic one, but one that has never been resolved. From the point of view of international law, the issue is unprecedented. Strange as it may be, there are only a few scattered lines on the international aspects of matrimonial advantages. The characterisation and regime must therefore be constructed on the basis of domestic and comparative law.

The proposed subject, a global study of matrimonial benefits in domestic law and private international law, is therefore innovative and is in line with both the interests of the French legislator (as demonstrated by the law of May 2024) and those of European Union law, which seeks to improve the movement of individuals within European judicial area, particularly through family property law.

The subject seems to me to correspond perfectly to several of the laboratory's key themes: heritage, private international law and comparative law.

**Date: 20 January 2025**

**Surname, First name: GUILLAUM  Johanna**

**Signature**

**The laboratory director will indicate how the project fits in with the host laboratory's strategy.**

The project is part of CUREJ's 'Person(s)' theme and offers synergies with the polysemous 'Heritage and Transitions' theme. It has an international and comparative dimension that is unprecedented in this field, making it an innovative project.

**Date: 21 January 2025**

**First name: C cile Legros**

**Signature**

C cile LEGROS, Directrice CUREJ UR4703



C. Legros