

# **Certificat de coutume (a statement or certificate issued to attest the content of a foreign law rule) - Practices in International Business Law - Conference, April 12, 2022, Conseil supérieur du notariat, Paris - in French**

The *Société de législation comparée* is organising, in partnership with the French *Conseil supérieur du Notariat*, the universities of Nîmes, Strasbourg and Lyon and with the *Institut des Usages* (Montpellier), an international symposium dedicated to the *Certificat de coutume*.

The importance of the subject is major. Statement or written certificate on the content of a foreign law rule, the *Certificat de coutume* is subject to a heterogeneous practice both in terms of its establishment and its processing.

Ignored by many jurists, its reliability is often called into question due to a double insufficiency that it may conceal: with regard to the law attested when it is issued by a public authority, with regard to the impartiality when it is issued by a private person.

However, these criticisms are not insurmountable. In addition to the combination with other means of establishing the content of the foreign law rule in question, the *Certificat de coutume* does not avoid obliterate any contradictory discussion and the freedom of interpretation of the authority before which it is produced. The liabilities associated with the *Certificat de coutume*, whether that of the drafter, the counsel of the parties or the notary using such a certificate, constitute a formidable safeguard against tendentious approaches.

Above all, we must not ignore the virtues of empiricism, which could - in these times of debates regarding a future codification of French private international

law - reveal important and good practices to be considered *de lege ferenda*.

The real added value of this project therefore lies in the desire to lift the veil on the *Certificat de coutume*, which currently constitutes a blind spot in private international law. Its name is certainly known to all, but its legal system still appears to be embryonic. The ambition of the symposium is to do constructive work and to offer concrete proposals, fruit of a collective reflection, bringing together the essential players in this field.

The symposium will be held in French on 12 April 2022 at the Amphitheater of the French Higher Council of Notaries (60 boulevard de la Tour-Maubourg - Paris, 7<sup>th</sup>).

Prior registration is required before April 7, 2022 by sending an email to: [emmanuelle.bouvier@legiscompare.com](mailto:emmanuelle.bouvier@legiscompare.com)

Conference validated as continuing education for lawyers.

Programme and description in French:  
<https://www.legiscompare.fr/web/Certificat-de-coutume-Pratiques-en-droit-des-affaires-internationales-12-avril>

The Programme is as follows:

### ***CERTIFICAT DE COUTUME***

#### **Practices in international business law**

##### **Scientific direction**

Gustavo Cerqueira, professor at the University of Nîmes

Nicolas Nord, Secretary General of the International Commission on Civil Status

Cyril Nourissat, professor at Jean Moulin University - Lyon 3

##### **Opening / 8:45 a.m.**

M<sup>e</sup> David Ambrosiano, *president of the Conseil supérieur du notariat*

M<sup>e</sup> Pierre-Jean Meyssan, *2<sup>nd</sup> vice-president of the CSN, in charge of legal affairs*

**Introduction / 9:00 a.m.**

*Certificat de coutume: historical and functional aspects*

Bertrand Ancel, *professor emeritus at the University of Paris II Panthéon Assas*

**I. Establishment of the *certificat de coutume* / 9:30 a.m.**

under the chairmanship of Bernard Haftel, *professor at the Sorbonne Paris Nord Univ.*

**9:30 a.m. *The purpose of the certificate***

*Determination of the purpose of the certificate*

Gilles Vercken, *lawyer at the Paris Bar*

*Attestation of uses*

Pierre Mousseron, *professor at the University of Montpellier*

Kevin Magnier-Merran, *lecturer at the University of Lorraine*

*Articulation of the sources of foreign law*

Gustavo Cerqueira, *professor at the University of Nîmes*

***Coffee break***

**10:50 a.m. *The writer of the certificate***

*The plurality of actors*

Nicolas Nord, *Secretary General of the ICCS*

*The challenges of choosing an editor*

Karlo Fonseca Tinoco, *lawyer at the São Paulo Bar*

**11:30 a.m. *The certificate method***

*Developing the certificate - comparative approaches*

Alejandro Garro, *professor at Columbia University, NY*

*Editor's discretion*

Cyril Nourissat, *professor at Lyon 3 University*

**II. The processing of the *certificat de coutume* / 2:00 p.m.**

under the chairmanship of Laurence Usunier, *professor at CY Cergy Paris Univ.*

2:00 p.m. *The interest of the certificate for the parties*

Jacques-Alexandre Genet, *lawyer at the Paris Bar*

2:20 p.m. *The value of the certificate for the authorities*

Jean-Luc Vallens, *honorary magistrate, former Pr. assoc. at Unistra*

Louis Degos, *arbitrator, managing partner KL Gates LLP - Paris*

Pierre Tarrade, *notary, rapp. general of the 115<sup>th</sup> congress of notaries of France*

3:20 p.m. *Certificate distortion control*

Sylvaine Poillot-Peruzzetto, *SE Advisor at the Court of Cassation*

***Coffee break***

**III. *Certificat de coutume* Responsibilities / 4:00 p.m.**

under the chairmanship of Etienne Farnoux, *professor at Unistra*

4:00 p.m. *The editor's responsibility*

Thibault de Ravel d'Esclapon, *lecturer at Unistra*

4:20 p.m. *The responsibility of the council of the parties*

Olivier Berg, *lawyer at the Paris Bar*

4:40 p.m. *The liability of the notary using a certificate*

Marc Cagniard, *first vice-president of the Chamber of Notaries of Paris*

**Conclusion: Perspectives *de lege ferenda* / 5:00 p.m.**

Pascal de Vareilles-Sommières, *professor at the University of Paris I*

