INTRODUCTION

Inheritance has always been regarded essentially as being a family issue, although people may and do choose to leave their assets outside their family (e.g., to friends, organizations or charities). Inheritance can be seen as the transmission of assets within a family after someone has died. Nowadays however, inheritance can no longer be regarded as merely a matter of interest to just a small minority of wealthy persons, due to the rising standards of living, the generalisation of home ownership and life insurances.

In this paper I will give a short survey of several developments in family forms in modern society, then deal with the usual law of succession and finally mention new challenges in the field of the law of succession. In the following I will deal with the increasing strengthening of the inheritance position of the spouse or partner of the deceased person and I will try to give options for an other law on succession, which will not only be based on genealogical ties, but which will give more flexibility for the decedent to make his living will (with regard to the assets and the children).

CHANGING FAMILY FORMS

In the last thirty years western societies have been confronted with several structural changes associated with the family. For example, people start living together before marrying, they marry at a later age and they get children after their career has started. The number of children per family has dropped. The divorce rate has risen, life expectancy has increased, one-
person households have become more numerous and alternative household forms, such as collective households, have made their appearance. The composition, size and numbers of nuclear families have changed as a consequence. The number of families that transit through other ways of living has also increased. Hence, the number of new kinds of households and other primary-ways of living, wherein the child is no longer the main concern, has increased. The number of married couples with children in most countries still overrules the number of unmarried couples with children, but the acceptance in society of and tolerance towards other primary ways of living has strongly grown over the last decades.

In the near future, one-third of all households in the Netherlands, for instance, will be of the nuclear-family type, one-third will be of the one-person variant and the remaining one-third will be made up by other household forms. If social policy remains unchanged, it is expected that in the beginning of the 21st century half of all households in the Netherlands will be of the one-person type. These changes and forecasts are not different from those found in other Western European countries. The progressive decline of kinship can be noticed in the successive improvements in the position of the surviving spouse, the mutability of marriage contracts, decreased parental control over their children's marriage, etc. On the other hand a reinforcement of the spousal relationship can be seen, for instance by the improvement of the surviving spouse's rights in intestacy. This reveals a preference for the surviving spouse over children of the marriage as well as over blood relatives of the decedent. Besides this development, it should be noticed that in most countries also a strengthening of the legal position of the (hetero or homosexual) partner can be seen and that new social living arrangements become more popular. In Scandinavian countries and in The Netherlands for instance the legislator made acts with regard to the registration of the living together of two (hetero- or homosexual) persons, with almost the same legal consequences as if they were married (the rules on affiliation and adoption are excluded in case of registered de facto marriages). Unmarried cohabiters can be defined as:

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1 According to a new Act that has been enacted at 1st January 1998 in the Netherlands couples are allowed to inscribe themselves at the registrar's office as a de facto marriage. This 'official status' of the relationship has the same legal consequences as if they were married. However, the registration does not have effects for the position of children born in that relationship (for instance by AID or IVF and embryo-transfer). The government installed a commission (the Kortmann committee) to research the possible risks and (legal and social) problems if adoption by two persons of the same sex would be allowed (especially with regard to international adoption).