PERSPECTIVES FOR THE UNIFICATION AND HARMONISATION OF FAMILY LAW IN EUROPE
EUROPEAN FAMILY LAW SERIES

Published by the Organising Committee of the Commission on European Family Law

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Perspectives for the Unification and Harmonisation of Family Law in Europe
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© 2003 Intersentia
Antwerp – Oxford – New York
http://www.intersentia.com

ISBN 90-5095-287-9
D/2003/7849/36
NUR 822 and 828

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PREFACE

For the first time in European legal history, a truly international conference devoted to the perspectives for the unification and harmonisation of family law in Europe took place in Utrecht from 11th – 14th of December 2002. The contributions to this conference, which was organised under the auspices of the Commission on European Family Law (CEFL), are compiled in this book. The main objective of the CEFL, founded in September 2001, is to study the feasibility of and to initiate practical steps towards the harmonisation of family law in Europe. The Conference was aimed to provide a strong and very necessary impetus in European countries to seriously consider the problems and possible solutions for reshaping national family law in accordance with the needs and purposes of the emerging “European citizenship”. It enabled family and comparative lawyers to extensively discuss the arguments for and against the Europeanisation of family law. The final written contributions are witness to the incredibly high level scientific standard in all respects of the contributions at the Conference. It is with great pride and gratefulness to be able to look back at the success of the conference and to be the editor of its proceedings.

In November 2002 at a conference in Amsterdam I listened to a presentation that was delivered by a young law professor. He spoke about the idea of ius commune and the harmonisation of private law in general by taking a great deal of aspects into account while he focused on the economic parts of private law. In answer to my question as to whether we should not include family law in the overall process of the harmonisation of private law he answered – and it did not come as a surprise to me – that this field of law is definitely culturally defined and that the opportunities for any harmonization are very limited. I doubted whether this is actually the case and asked him why he holds this view. He replied spontaneously. "You can read it in Zweigert/Kötz’s book on comparative law." This argument is – notwithstanding the uncontested authority of the cited book – no longer convincing. The numerous gathering of more than 140 family and comparative law specialists in Utrecht representing 27 mostly European jurisdictions clearly demonstrated that in the field of family law in Europe major changes have taken place.

In March 2001 we, Masha Antokolskaia, Bente Braat, Marianne Hofman, Mieke Scheffler, Ian Sumner and myself, began with the organisation of the Utrecht conference. For me personally it was a challenging endeavour.
Yet the whole team was totally devoted to the idea of making the conference a pleasant and successful event. However, without the financial support of many institutions and organisations the conference and the following publication would not have been possible. I am greatly indebted to Utrecht University and its Law Faculty, the Royal Dutch Academy of Science (KNAW), the Netherlands Congress Bureau, The Dutch Association of Comparative Law, the Ius Commune Research School, the publishing house Intersentia, the Dutch Ministry of Justice and the European Commission. The advantages of our successful application to the High-Level Scientific Conference Programme of the European Commission were twofold. First, family law has been placed on the European research agenda and second, persons under the age of 35 years, were able to attend the conference free of charge. Nearly 60 participants fell under this category. This is to be considered a great achievement, which would not have been attained without the European Commission’s stimulating grant for the conference. In addition, thirteen young researchers delivered papers which together with the contributions of many already very well-known specialists in the field of (international) family and comparative law are published in this book.

Finally, is the unification and harmonisation of (international) family law in Europe necessary? Is it feasible, desirable and possible? Reading the different contributions to this book may certainly inspire those who would like to find the right answers to these questions.

Katharina Boele-Woelki

Utrecht, 15 May 2003
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