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

Prof. Katharina Boele-Woelki (Utrecht)
Prof. Frédérique Ferrand (Lyon)
Dr. Cristina González Beilfuss (Barcelona)
Prof. Maarit Jänterä-Jareborg (Uppsala)
Prof. Nigel Lowe (Cardiff)
Prof. Dieter Martiny (Frankfurt/Oder)
Prof. Walter Pintens (Leuven)
PERSPECTIVES FOR THE UNIFICATION AND HARMONISATION OF FAMILY LAW IN EUROPE

Edited by

KATHARINA BOELE-WOELKI

Intersentia
Antwerp – Oxford – New York
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 Scheffer, 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
LIST OF AUTHORS

Dr. Masha Antokolskaia
Senior Research Fellow at the Molengraaff Institute for Private Law, University of Utrecht

Ms. Miglena Baldjieva
Senior Expert at the State Agency for Child Protection, Sofia

Prof. Dr. Katharina Boele-Woelki
Professor of Private International Law, Comparative Law and Family Law at the Molengraaff Institute for Private Law, University of Utrecht; Chair of the Commission on European Family Law

Mr. Matteo Bonini-Baraldi
LL.M. (University of British Columbia); Ph.D. candidate at Università di Bologna

Dr. David Bradley
Reader in Law, Law Department, London School of Economics and Political Science

Dr. Janeen M. Carruthers
Lecturer, School of Law, University of Glasgow

Prof. Dr. Nina Dethloff
Professor of Civil Law, Private International Law, Comparative Law and European Private Law, Rheinische Friedrich-Wilhelms-Universität, Bonn

Ms. Monica Ekström
Administrator at the “Judicial Cooperation Civil Matters” unit at the European Commission’s Directorate-General Justice and Home Affairs

Dr. Aristides N. Hatzis
Lecturer of Philosophy of Law and Theory of Institutions, University of Athens

Dr. Sandrine Henneron
Professor at EDHEC, Business School and member of the LERADP, University of Lille II
List of Authors

Prof. Dr. Ewoud Hondius
Professor of Private Law at the Molengraaff Institute for Private Law,
University of Utrecht

Prof. Dr. Maarit Jänterä-Jareborg
Professor of Private International Law and International Procedural
Law, University of Uppsala

Ms. Christina G. Jeppesen De Boer
Ph.D. researcher at the Molengraaff Institute for Private Law, University
of Utrecht

Ms. Suzana Kraljić
Lecturer in Law, University of Maribor

Prof. Dr. Andrzej Mączyński
Jagiellonian University in Cracow, Chair of Private International Law

Ms. Rosa Martins
Assistant Lecturer and Researcher at the Family Law Centre
of the Faculty of Law of Coimbra

Prof. Dr. Dieter Martiny
Professor of Civil Law, Private International Law and Comparative Law,
Europa-Universität Viadrina, Frankfurt/Oder

Prof. Nancy G. Maxwell
Professor of Law, Washburn University School of Law, Topeka, Kansas

Dr. Peter McEleavy
Lecturer in Law, University of Aberdeen

Dr. Clare McGlynn
Reader in Law, University of Durham

Prof. Dr. Marie-Thérèse Meulders-Klein
Emeritus Professor at the Catholic University of Louvain,
Past President of the International Society of Family Law

Prof. Dr. Esin Örücü
Professor of Comparative Law, University of Glasgow and Erasmus
University Rotterdam
Prof. Dr. Walter Pintens
Professor of Law, Catholic University of Leuven,
University of Saarbrücken

Dr. Elena Rodríguez Pineau
Lecturer in Private International Law, University of Madrid

Prof. Dr. Ingeborg Schwenger
Professor of Civil Law, University of Basel

Dr. Helen Stalford
Lecturer in Law, The Liverpool Law School, Liverpool University

Ms. Yvette Tan
Lecturer and doctoral candidate, School of Law, University of Manchester

Mr. Mário Tenreiro
Head of the “Judicial Cooperation Civil Matters” unit at the European Commission’s Directorate-General Justice and Home Affairs

Dr. Aspasia Tsaoussis-Hatzis
Visiting Professor, Athens Laboratory of Business Administration
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