

PRINCIPLES OF EUROPEAN FAMILY LAW REGARDING  
PARENTAL RESPONSIBILITIES

EUROPEAN FAMILY LAW SERIES

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# PREFACE

## *The Commission on European Family Law*

The Commission on European Family Law (CEFL), which was established in September 2001, drafts common principles that are thought to be the most suitable for the harmonisation of family law in Europe. The first set of Principles was published in 2004 (BOELE-WOELKI/FERRAND/GONZÁLEZ BEILFUSS/JÄNTERÄ-JAREBORG/LOWE/MARTINY/PINTENS, *Principles of European Family Law Regarding Divorce and Maintenance Between Former Spouses*, European Family Law Series No. 7). This book contains the second set.

## *Organisation*

The CEFL consists of the *Organising Committee* (Katharina Boele-Woelki (chair), Frédérique Ferrand, Cristina González Beilfuss, Maarit Jänterä-Jareborg, Nigel Lowe, Dieter Martiny and Walter Pintens) and the *Expert Group* which at present has 26 members. The Organising Committee prepares and co-ordinates the work of the CEFL as a whole. The members of the Organising Committee are at the same time members of the Expert Group. The Expert Group comprises specialists in the field of family and comparative law from most of the Member States of the European Union with the involvement of experts from other European countries, such as Norway, Russia and Switzerland.

The CEFL is a foundation according to Dutch law. It has its seat at Utrecht University's Molengraaff Institute for Private Law, Nobelstraat 2a, 3512 EN Utrecht, [www.law.uu.nl/priv/cefl](http://www.law.uu.nl/priv/cefl). Dr. Bente Braat heads CEFL's secretariat, its Webmaster is Dr. Ian Curry-Sumner. They are both researchers at the Utrecht Centre for European Research into Family Law (UCEFF) of the Molengraaff Institute for Private Law at Utrecht University's School of Law.

## *Aims and objectives*

CEFL's activities are intended to produce results that may be used for specific practical and academic purposes. First and foremost, the Principles are addressed to national legislators in their quest to modernise their national family law. They also function as a source of inspiration for both the European and international legislatures. The

Principles are spelt out in provisions but these must be read in conjunction with comments, which elucidate the rules and offer comparative information. These comments are part and parcel of the Principles. The Principles could considerably facilitate the task of legislators due to the reason that, on the one hand, CEFL's in-depth and comprehensive comparative research is easily accessible and, on the other hand, many of the rules have been drafted: in a manner that legislators often consider to be appropriate. Some of the Principles, but not all, have been drafted so that they could be implemented in a national system. Second, research into the effectiveness of national solutions in the field of family law can largely profit from CEFL's results. The drafting of the Principles is based on an evaluation of the legal institutions, legal solutions and norms of the various legal orders, which express the hierarchy of values inherent in every legal order, although to different degrees. It is to be expected that future scientific research in the field of the harmonisation of family law in Europe to be carried out by individual researchers or eventually research teams will necessarily refer to and compare national solutions with the CEFL Principles. Third, CEFL's comparative material contains comprehensive information about twenty-two family law systems in Europe and it has been regularly consulted by practitioners. Specific information about, for instance, the divorce grounds in GREECE or the position of the new partner of the parent who holds parental responsibilities in respect of the child under HUNGARIAN law is easily accessible and may help in those cases where lawyers seek information about the precise content of foreign family law. In addition, all national reports are written in English, which in most cases facilitates access to those national systems where the official language is not English, French or German. The often difficult legal translations have thus already been done by national experts.

### *Experts*

The following persons contributed to the drafting of the Principles regarding Parental Responsibilities through the writing of a national report and/or taking part in the discussions at the CEFL meetings. Several experts wrote their national reports together with co-authors. Their names are both mentioned on CEFL's website ([www2.law.uu.nl/priv/cefl](http://www2.law.uu.nl/priv/cefl)) and listed in the integrated version of all national reports (BOELE-WOELKI/BRAAT/CURRY-SUMNER, *European Family Law in Action, Volume III: Parental Responsibilities*, European Family Law series No. 9, pp. vii-x).

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University of Uppsala

SWITZERLAND *Professor Heinz Hausheer*  
University of Bern  
*Professor Ingeborg Schwenzer*  
University of Basel

### *Meetings*

The meetings of the *Organising Committee* during which the Principles on Parental Responsibilities were prepared and drafted took place in:

LEUVEN	23-25 January 2004
FRANKFURT/ODER	19 March 2004
BARCELONA	6-8 May 2004
UTRECHT	9 December 2004
BRUSSELS	10-13 February 2005
LYON	7-10 April 2005
UTRECHT	15-18 September 2005
UPPSALA	8 December 2005
FRANKFURT/ODER	16-19 March 2006
BRUSSELS	23-26 November 2006

The meeting of the *Expert Group* during which the draft of the Principles on Parental Responsibilities was discussed took place in:

UPPSALA	8-10 December 2005
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### *Conferences*

The essence of the pioneering work carried out by CEFL is such that it needs constant backing in a broader academic forum. For this purpose, the CEFL organises family law conferences on a regular basis. Its inaugural conference was organised in Utrecht from the 11<sup>th</sup>–14<sup>th</sup> of December 2002. It was largely dedicated to the theoretical aspects of the unification and harmonisation of family law in Europe and aimed to discuss

the theoretical and practical premises upon which the CEFL had developed its activities and the initial results achieved by CEFL at that stage (BOELE-WOELKI (ed), *Perspectives for the Unification and Harmonisation of Family Law in Europe*, European Family Law Series No. 4, 2003). In order to keep CEFL's work in regular contact and dialogue with the broader academic community the first results of its work were presented at the 2<sup>nd</sup> CEFL Conference which was again held in Utrecht from the 9<sup>th</sup>–11<sup>th</sup> December 2004. At that conference the CEFL presented the Principles of European Family Law for the first two chosen fields: divorce and maintenance between former spouses. In addition, the initial results in the second working field – parental responsibilities – were presented. The main scientific objective of the conference was to subject the choices and working method of the CEFL to a critical assessment by both academics and practitioners in order to obtain feedback concerning the work which had been accomplished up to that time. Building upon the experience of CEFL's inaugural conference the plenary sessions with presentations by prominent experts was combined with three workshops containing presentations by young researchers which were selected after a call for papers (BOELE-WOELKI (ed), *Common Core and Better Law in European Family Law*, European Family Law Series No. 10, 2005). CEFL's third conference on the European Challenges in Contemporary Family Law in Europe will take place in Oslo from the 7<sup>th</sup>–9<sup>th</sup> June 2007. It is organised in collaboration with the Department of Private Law of the University of Oslo in Norway. Various subjects are addressed, such as human rights and the harmonisation of family law in Europe, the attempts to reharmonise Nordic family law, the rights of children and the responsibilities owed to them, the new European instruments in the field of private international law in family matters, the migration in Europe and, finally, the position of cohabitants upon the termination of their relationship either by means of death or dissolution. Once again, this conference will provide selected young researchers with the opportunity to present their research.

### *European Family Law series*

CEFL's Organising Committee established the *European Family Law* series which includes comparative legal studies and materials as well as studies on the effects of international and European law-making within the national legal systems in Europe. The books in this series are published by the Belgian publisher Intersentia (Antwerp-Oxford-New York) in cooperation with the Swiss publisher Stämpfli (Bern). Since March 2003 sixteen volumes have been published in the series. Further information is available at CEFL's website.

*Financial support*

The activities of the CEFL have been largely financed by the European Commission under the Framework Programme on Judicial Cooperation in Civil Matters 2004. In addition, financial support has been received from the Netherlands Organisation for Scientific Research (NWO), the Dutch Ministry of Justice, the Royal Dutch Academy of Science (KNAW), the Deutsche Forschungsgemeinschaft (DFG), the Bank of Sweden Tercentenary Foundation (RJ), the Wenner-Gren Foundation, the Ius Commune Research School, and the publishers Intersentia (Antwerp) and Stämpfli (Bern). The Universities of Barcelona, Cardiff, Frankfurt/Oder, Leuven, Lyon, Uppsala and Utrecht finally met a significant part of the expenses incurred by the CEFL meetings.

The CEFL is very grateful to all these sponsors for their substantial contributions.

Katharina Boele-Woelki

Utrecht, January 2007



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