European Family Law Series

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

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EUROPEAN CHALLENGES IN CONTEMPORARY FAMILY LAW

Edited by

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PREFACE

What constitutes the European challenges in contemporary family law? The third CEFL Conference in Oslo from 7–9 June 2007 brought together more than 100 participants from 30 countries to provide answers to this question by addressing a wide range of issues that currently engage family lawyers in Europe. The conference was organised along the same lines as the two previous CEFL conferences held in Utrecht in 2002 and 2004. According to the CEFL, it is of the utmost importance that young researchers are invited to the general discussions concerning the process of the harmonisation of family law in Europe. Therefore, the CEFL has deliberately chosen two categories of presenters: recognized authorities on different aspects of family law on the one hand, and young researchers who have been selected after a call for papers, on the other. In this volume the reader will find their final written contributions.

The volume consists of five parts. Part one deals with the harmonisation of family law in Europe, especially the Nordic countries, and the United States. The general usage of the concepts of human rights, harmonisation and unification is among the subjects addressed in this part. Part two – children and their parents – deals with general aspects of the human rights of children, as well as specific questions arising from new family forms and the new technology of artificial fertilisation. This part relates to CEFL’s second working field, and the Principles regarding parental responsibilities, which were published in no. 16 of this series, are presented. Part three contains contributions on irregular marriages and the influence of multiculturalism, especially Muslim traditions, in different areas of family law. The fourth part – (property) relations between spouses and cohabitants – deals with a broad range of key questions in connection with economic settlements upon the dissolution of marriage and cohabitation. Finally, the fifth part is dedicated to cross-border family relationships and the different legal instruments in this area of private international law.

These issues represent European challenges in contemporary family law and they are, in different ways, related to the remarkable change in family life that has taken place in Europe in the last three or four decades. Hardly any other field of law has experienced such profound and deep social and demographic changes as family law in this short period of time: an explosion in the divorce rates and extramarital cohabitation and the resulting increase in the number of children born out of wedlock; women joining the paid work force en masse, influencing,
among other things, parental roles and property relations among partners; and – more recently – the growing social acceptance of same-sex relationships and new techniques of artificial insemination are just a few important features of this development. We are in the middle of a “silent revolution” in family life in Europe. And while these transformations take place, we experience a vast cross-border movement of people – both within Europe, and in the form of migration from other continents.

Some would maintain that it is impractical to develop principles of family law in such a period of transition. Others would argue that it is more important than ever to provide basic guidelines for a common legal framework for family life in Europe. As we know, different opinions exist on these and other questions of harmonisation. The contributions in this volume will, hopefully, enrich and inspire these discussions.

The 3rd CEFL conference was organised in co-operation with the Department of Private Law at the University of Oslo, and was largely financed by the Nordic Council of Ministers, the Norwegian Ministry of Justice and the Norwegian Ministry of Children and Equality. We would like to extend our heartfelt gratitude to all these four institutions for their substantial contributions.

Katharina Boele-Woelki and Tone Sverdrup
Utrecht and Oslo, December 2007
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