

EUROPEAN FAMILY LAW IN ACTION

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Prof. Katharina Boele-Woelki (Utrecht)
Prof. Frédérique Ferrand (Lyon)
Prof. Cristina González Beilfuss (Barcelona)
Prof. Maarit Jänterä-Jareborg (Uppsala)
Prof. Nigel Lowe (Cardiff)
Prof. Dieter Martiny (Frankfurt/Oder)
Prof. Walter Pintens (Leuven)

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**Volume IV: Property Relations
between Spouses**

Edited by

KATHARINA BOELE-WOELKI

BENTE BRAAT

IAN CURRY-SUMNER



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Katharina Boele-Woelki, Bente Braat, Ian Curry-Sumner (eds)

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PREFACE

This fourth volume of the European Family Law in Action publications contains detailed information concerning the law on property relations between spouses in twenty-six European jurisdictions. The first three volumes, which were published in 2003 and 2005 under the same editorship, include national reports on the grounds for divorce, maintenance between former spouses and parental responsibilities (Nos. 2, 3 and 9 of this series). Upon the basis of this comparative material the Commission on European Family Law has formulated the *Principles of European Family Law regarding Divorce, Maintenance between Former Spouses and Parental Responsibilities*, which were published in December 2004 as No. 7 and in March 2007 as No. 16 in this series.

In order to prepare the third set of Principles of European Family Law the expert members of the CEFL have once again drafted comprehensive national reports on the basis of a detailed questionnaire in the field of property relations between spouses. These national reports, together with the relevant legal provisions, are available on CEFL's web site (www.ceflonline.net). Stefan Derksen, student-assistant at the Utrecht Centre for European Research into Family Law (UCERF), to which all three editors belong, also assisted in the editing of the national reports.

This book integrates all the given answers in order to provide an overview and a straightforward simultaneous comparison of the different solutions chosen within the national systems. On the basis of this comparative material the CEFL will be able to draft *Principles of European Family Law regarding Property Relations between Spouses*. The comparative perspective reveals that within Europe several completely different regimes are applied, such as the community of property, the community of accrued gains, the participation in acquisitions, the deferred community of property, the separation of property and the separation of property together with the distribution by the competent authority. Given this great variety of solutions the question arises whether one single European matrimonial property scheme can and will be established or whether the devising of two systems is more feasible, one based on community and the other based on separation.

In respect of cross-border relationships legislative initiatives regarding property relations between spouses have also been taken. At the level of European law a Regulation on matrimonial property regimes is being prepared. It will address the conflict of laws in matters concerning matrimonial property regimes, including the question of jurisdiction and mutual recognition intending to examine all property aspects of both married couples and other forms of unions. The preparatory Green Paper was published in July 2006 (COM (2006) 400 final). In drafting the CEFL Principles on Property Relations between Spouses the

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proposed EU Matrimonial Property Law Regulation will also be taken into account. Explicit comparisons of the substantive matrimonial property law between the European jurisdictions will be undertaken and an exposition of the variations in the underlying rules themselves will systematically reveal and explain why a particular Principle was selected and drafted. Only reliable and comprehensive comparative material should be used in carrying out such an endeavour. The book at hand fulfils this fundamental requirement.

Katharina Boele-Woelki
Utrecht, February 2009

AUTHORS

AUSTRIA	<i>Prof. Marianne Roth</i> University of Salzburg
BELGIUM	<i>Prof. Walter Pintens</i> Catholic University Leuven <i>Veerle Allaerts</i> Catholic University Leuven <i>Dominique Pignolet</i> Catholic University Leuven <i>Steven Seyns</i> Catholic University Leuven
BULGARIA	<i>Dr. Velina Todorova</i> Plovdiv University, Sofia
CATALONIA	<i>Prof. Miquel Martin-Casals</i> University of Girona <i>Dr. Jordi Ribot</i> University of Girona
CZECH REPUBLIC	<i>Dr. Filip Melzer</i> Palacký University, Olomouc on behalf of <i>Prof. Milana Hrusaková</i> Masarykovy University, Brno
DENMARK	<i>Ingrid Lund-Andersen</i> University of Århus <i>Ingrid Magnussen</i> University of Århus
ENGLAND AND WALES	<i>Prof. Anne Barlow</i> University of Exeter

Authors

FINLAND	<i>Dr. Kirsti Kurki-Suonio</i> Office of the Parliamentary Ombudsman, Helsinki
FRANCE	<i>Prof. Frédérique Ferrand</i> University of Lyon
	<i>Dr. Bente Braat</i> University of Utrecht
GERMANY	<i>Prof. Nina Dethloff</i> University of Bonn
	<i>Prof. Dieter Martiny</i> European University Viadrina, Frankfurt (Oder)
GREECE	<i>Prof. Achilles G. Koutsouradis</i> Faculty of Law, University of Thessaloniki
	<i>Sotirios Kotronis</i> University of Zürich
	<i>Fotoula Hatzantonis</i> University of Manchester
HUNGARY	<i>Prof. Emila Weiss</i> University of Eötvös Loránd, Budapest
	<i>Dr. Orsolya Szeibert</i> University of Eötvös Loránd, Budapest
REPUBLIC OF IRELAND	<i>Prof. Geoffrey Shannon</i> Law Society of Ireland, Dublin

ITALY

Prof. Salvatore Patti
University La Sapienza of Rome

Dr. Cristina Caricato
University La Sapienza of Rome

Dr. Claudia Irti
University La Sapienza of Rome

Dr. Maria Alessandra Iannicelli
University La Sapienza of Rome

Dr. Maria Francesca Serra
University La Sapienza of Rome

Dr. Paola Di Stefano
University La Sapienza of Rome

Dr. Zsofia Csenge Petö
University La Sapienza of Rome

Dr. Tania Bortolu
University La Sapienza of Rome

LITHUANIA

Prof. Valentinas Mikelenas
Supreme Court of Lithuania

MALTA

Prof. Ruth Farrugia
University of Malta

THE NETHERLANDS

Prof. Katharina Boele-Woelki
University of Utrecht

Fred Schonewille
University of Utrecht

Dr. Wendy Schrama
University of Utrecht

NORWAY

Prof. Tone Sverdrup
University of Oslo

Authors

POLAND	<i>Prof. Andrzej Mączyński</i> Jagiellonian University of Kraków
PORTUGAL	<i>Prof. Guilherme de Oliveira</i> University of Coimbra <i>Rosa Martins</i> University of Coimbra <i>Paula Vítor</i> University of Coimbra
RUSSIA	<i>Prof. Masha Antokolskaia</i> Free University of Amsterdam
SCOTLAND	<i>Dr. Jane Mair</i> University of Glasgow
SLOVAKIA	<i>Dr. Miloš Haťapka</i> Ministry of Justice of the Slovak Republic
SPAIN	<i>Dr. Cristina González Beilfuss</i> University of Barcelona
SWEDEN	<i>Prof. Maarit Jänterä-Jareborg</i> University of Uppsala <i>Dr. Margareta Brattström</i> University of Uppsala <i>Kajsa Walleng</i> University of Uppsala
SWITZERLAND	<i>Prof. Ingeborg Schwenzer</i> University of Basel <i>Anne-Florence Bock</i> University of Basel

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D. MARITAL AGREEMENTS. 1131

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192. Are spouses permitted to make a post-nuptial agreement regulating
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194. What formal requirements must the pre- and/or post-nuptial
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system of registration of pre- and/or post-nuptial agreements?
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196. If the agreement has to be made before an official (e.g. a notary), is
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