EUROPEAN FAMILY LAW SERIES

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

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EUROPEAN FAMILY LAW IN ACTION

Volume IV: Property Relations between Spouses

Edited by

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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 CEFLs 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
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.

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