

**PRINCIPLES OF EUROPEAN FAMILY
LAW REGARDING DIVORCE
AND MAINTENANCE BETWEEN
FORMER SPOUSES**

EUROPEAN FAMILY LAW SERIES

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Principles of European Family Law Regarding Divorce and Maintenance
Between Former Spouses
Katharina Boele-Woelki, Frédérique Ferrand, Cristina González Beilfuss,
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PREFACE

The Commission on European Family Law

In September 2001 an international group of scholars established the *Commission on European Family Law* (CEFL). The main objective of the CEFL is to launch a pioneering theoretical and practical exercise in relation to the harmonisation of substantive family and succession law in Europe. The major benefit to be expected by the establishment of the CEFL is the creation of a set of Principles of European Family Law. The establishment of the CEFL is based on a scientific initiative and therefore its members are totally independent of any organisation or institution. Consequently, the comparative research-based drafting of common Principles is a purely academic matter.

Organisation

The CEFL consists of two groups : the Organising Committee (Katharina Boele-Woelki (chair), Frédérique Ferrand, Cristina González Beilfuss (since December 2002), Maarit Jänterä-Jareborg (since December 2002), Nigel Lowe, Dieter Martiny, Walter Pintens and Dieter Schwab (until November 2002)) and the Expert Group which at present consists of 26 members. The Organising Committee sets up the Expert Group and prepares and coordinates the work of the Commission 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 European Union Member States with the involvement of experts from other European countries, such as Norway, Russia and Switzerland. In the future, the Expert Group will be enlarged with family and comparative law specialists from those countries which are not yet represented. Right from the beginning experts from Central and Eastern European countries were also involved in anticipation of the – at that time – prospective accession to the European Union.

The CEFL is a foundation according to Dutch law. It has its seat at the Molengraaff Institute for Private Law of Utrecht University, Nobelstraat 2a, 3512 EN Utrecht, <http://www2.law.uu.nl/priv/cefl>. CEFL's secretariat is headed by Dr. Bente Braat, its webmaster is Ian Sumner. They are both researchers at the Molengraaff Institute for Private Law at the Faculty of Law of Utrecht University.

Experts

The following persons contributed to the drafting of the Divorce and Maintenance Between Former Spouses Principles through writing of a national report and/or taking part in the discussions at the CEFL meetings.

AUSTRIA	<i>Professor Marianne Roth</i> Institut für Zivilverfahrensrecht, Salzburg
BELGIUM	<i>Professor Walter Pintens</i> Catholic University Leuven
BULGARIA	<i>Dr. Velina Todorova</i> Plovdiv University, Sofia
CZECH REPUBLIC	<i>Professor Milana Hrusaková</i> Masarykovy Univerzity, Brno
DENMARK	<i>Associate Professor Ingrid Lund-Andersen</i> Department of Private Law, University of Århus
ENGLAND AND WALES	<i>Professor Nigel Lowe</i> Law Department, University of Cardiff, Wales Cardiff Law School <i>Mr. John Eekelaar</i> Pembroke College, University of Cambridge
FINLAND	<i>Mr. Matti Savolainen</i> Ministry of Justice, Helsinki
FRANCE	<i>Professor Frédérique Ferrand</i> Jean Moulin 3, University of Lyon
GERMANY	<i>Professor Nina Dethloff</i> Institut für deutsches, europäisches und internationales Familienrecht, Rheinische Friedrich-Wilhelms, Universität Bonn <i>Professor Dieter Martiny</i> Europa-Universität Viadrina, Frankfurt (Oder) <i>Emeritus Professor Dieter Schwab</i> Universität Regensburg
GREECE	<i>Professor Achilles G. Koutsouradis</i> Faculty of Law, University of Thessaloniki
HUNGARY	<i>Professor Emila Weiss</i> Civil Law Department, University of Eötvös Loránd

REPUBLIC OF IRELAND	<i>Mr. Geoffrey Shannon</i> Law Society of Ireland, Dublin
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PORTUGAL	<i>Professor Guilherme de Oliveira</i> University of Coimbra
RUSSIA	<i>Dr. Masha Antokolskaia</i> Molengraaff Institute for Private Law, University of Utrecht
SCOTLAND	<i>Professor Michael Meston</i> Department of Private Law, University of Aberdeen
SPAIN	<i>Dr. Cristina González Beilfuss</i> University of Barcelona <i>Professor Miquel Martín-Casals</i> University of Girona
SWEDEN	<i>Professor Maarit Jänterä-Jareborg</i> University of Uppsala
SWITZERLAND	<i>Emeritus Professor Heinz Hausheer</i> University of Bern <i>Professor Ingeborg Schwenger</i> University of Basel

Meetings

The meetings of the Organising Committee took place in:

Utrecht	31 August – 1 September 2001
Leuven	11 – 12 January 2002
Regensburg	9 – 10 October 2002
Utrecht	12 December 2002
Lyon	24 – 26 January 2003
Cardiff	4 – 6 April 2003
Uppsala	10 – 12 October 2003
Leuven	23 – 26 January 2004
Frankfurt(Oder)	19 March 2004
Barcelona	9 – 11 April 2004

The meetings of the Expert Group took place:

Utrecht	6 – 8 March 2003
Frankfurt (Oder)	18 – 21 March 2004

Conferences

Two international conferences have been organised under the auspices of the CEFL. The inaugural conference took place from 11th-14th December 2002 in Utrecht and was devoted to the perspectives for the unification and harmonisation of family law in Europe. The high-level scientific standard of its contributions which are compiled in No. 4 of the European Family Law Series (see below) was received with great interest and enthusiasm. The second conference again takes place in Utrecht from 9th-11th December 2004. This conference aims to widen the discussion regarding the first steps towards a European Restatement of Family Law in general and CEFL's first results in the form of the present book in particular.

European Family Law series

CEFL's Organising Committee launched a new series dedicated to family law in Europe. Since March 2003 six volumes were published in the European Family Law series by the Belgian publishing house Intersentia

(Antwerp) in cooperation with the Swiss publishing house Stämpfli (Bern). Comparative legal studies, materials and studies on the effects of international and European law making within the national legal systems of Europe are published in the English, French or German languages. The EFL series is not restricted to CEFL reports and Principles. On the contrary, monographs, dissertations or conference proceedings which fall within the scope of the EFL-series and which meet the scientific standards are very welcome. The first book of the series contains contributions to a conference in Uppsala on the legal recognition of same-sex couples in Europe which took place in September 2002. The second and third volumes contain the integrated versions of twenty-two national reports concerning grounds for divorce and maintenance between former spouses. The fourth volume includes the conference proceedings of the first CEFL conference which took place in December 2002. The fifth volume contains an English translation of the Dutch family law statutes. The sixth volume is the first French publication in the series. It contains a dissertation on matrimonial property law in a comparative perspective. All information about the series is accessible at CEFL's website.

Sponsors

Financial support has been received from the European Commission under the following research programmes: the Fifth Framework Programme Judicial Cooperation in Civil Matter, Grotius Civil Programme (2001), the High Level Scientific Conference Programme of the Improving Human Research Potential and the Socio-Economic Knowledge Base (2002) and the Framework Programme for Judicial Cooperation in Civil Matters (2003). In addition contributions have been received from the Netherlands Organisation of Scientific Research (NWO), the Royal Dutch Academy of Science (KNAW), the Netherlands Congress Bureau, The Dutch Association of Comparative Law, the Ius Commune Research School, the Dutch Ministry of Justice, the Deutsche Forschungsgemeinschaft (DFG) and the publishing house Intersentia. The Universities of Barcelona, Cardiff, Frankfurt/Oder, Leuven, Lyon, Regensburg, Uppsala and Utrecht finally paid a significant part of the expenses of the meetings which took place in their own cities.

We are most grateful to all these sponsors for their substantial contributions.

Katharina Boele-Woelki

Utrecht, September 2004

TABLE OF CONTENTS

PREFACE	v
The Commission on European Family Law	v
Organisation	v
Experts	vi
Meetings	viii
Conferences	viii
European Family Law Series	viii
Sponsors	ix
GENERAL INTRODUCTION	1
Europeanisation of Family Law	1
Methodology	1
Nature of the Principles	3
Languages	3
The first working fields: Divorce and Maintenance	
Between Former Spouses	4
The second working field: Parental Responsibilities	4
PREAMBLE	7
PART 1. DIVORCE	11
Introduction	13
Principle 1:1 Permission of divorce	17
Principle 1:2 Procedure by law and competent authority	20
Principle 1:3 Types of divorce	24
Principle 1:4 Mutual consent	27
Principle 1:5 Reflection period	33
Principle 1:6 Content and form of the agreement	37
Principle 1:7 Determination of the consequences	43
Principle 1:8 Factual separation	51
Principle 1:9 Exceptional hardship to the petitioner	57
Principle 1:10 Determination of the consequences	59
PART 2. MAINTENANCE BETWEEN FORMER SPOUSES	67
Introduction	69
Principle 2:1 Relationship between maintenance and divorce	73
Principle 2:2 Self sufficiency	77
Principle 2:3 Conditions for maintenance	79
Principle 2:4 Determining claims for maintenance	85
Principle 2:5 Method of maintenance provision	96

Principle 2:6 Exceptional hardship to the debtor spouse	100
Principle 2:7 Multiplicity of maintenance claims	104
Principle 2:8 Limitation in time	112
Principle 2:9 Termination of the maintenance obligation	116
Principle 2:10 Maintenance agreement	125
Principles of European Family Law Regarding Divorce and Maintenance Between Former Spouses	135
Principes de droit européen de la famille concernant le divorce et les pensions alimentaires entre époux divorcés	141
Prinzipien zum Europäischen Familienrecht betreffend Ehescheidung und nachehelicher Unterhalt	147
Beginselen van Europees familierecht betreffende echtscheiding en alimentatie tussen gewezen echtgenoten	153
Principios de derecho Europeo de familia relativos al divorcio y a los alimentos entre esposos divorciados	159
Europeiska familjerättsprinciper rörande äktenskapsskillnad och underhåll mellan förutvarande makar	165