

**COMMON CORE AND BETTER LAW
IN EUROPEAN FAMILY LAW**

EUROPEAN FAMILY LAW SERIES

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PREFACE

Exactly two years after its inaugural conference about the Perspectives for the Unification and Harmonisation of Family Law in Europe, the Commission on European Family Law (CEFL) organised its second conference which took place in Utrecht from 9th-11th of December 2004. This second CEFL conference was organised along the same lines as the first conference. Not only well-known specialists in the field of (international) family and comparative law took the floor but also young researchers were expressly invited to contribute to the conference. This volume contains the twenty-three written versions of the interventions that were presented.

The volume consists of four parts which reflect the working fields of the CEFL. The first part deals with aspects of divorce and maintenance between former spouses. The respective Principles of European Family Law, which were published in No. 7 of this series, are explained by CEFL members and assessed by outside observers. The second part – parental responsibilities – which is CEFL's second working field contains initial results of CEFL's national reports in this field as well as specific aspects such as contact arrangements, relocations orders and co-parenthood. The Principles regarding parental responsibilities are expected to be published in 2006. The third part contains contributions regarding the informal long term relationships. The CEFL will continue its activities in this field from 2006 onwards. Finally, the fourth part is dedicated to the revised Brussels II Regulation which came into force on 1st March 2005. The interrelation between this private international law instrument and substantive family law has mainly influenced CEFL's selection of its working fields. Furthermore, the two opening contributions deal not only with essential aspects regarding the harmonisation process of family law in Europe but also with the CEFL's working method.

The legal institutions, legal solutions, and norms of the various legal orders express the hierarchy of values inherent in every legal order, though in different degrees. A comparative approach requires an assessment of these values. Apparently, there is no universally accepted hierarchy of values, and thus no objective standard for the evaluation. Some degree of subjectivity in the evaluation process cannot be avoided, but does this really matter? In addition, should the harmonisation of family law in Europe only be common core-based or is the use of the better law method indispensable in order to achieve positive results that represent the highest standard of modernity? At least during the drafting process of the first set of Principles of European Family Law it became apparent that, to a certain extent, it is not obligatory to make

a choice between one thing and another. Also a combination of both methods can be applied. The title of this volume intends to express this connotation.

Also the 2nd CEFL conference was largely financed by different organisations, such as the European Commission under the Framework Programme Judicial Cooperation in Civil Matters, the Netherlands Organisation of Scientific Research (NWO), the Dutch Ministry of Justice, the Utrecht University and its Law Faculty, the Royal Dutch Academy of Science (KNAW), the Ius Commune Research School, the publishing houses Intersentia (Antwerp) and Stämpfli (Bern). The CEFL is most thankful to all these sponsors for their substantial contributions.

Katharina Boele-Woelki

Utrecht, April 2005

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