

BRUSSELS II BIS

EUROPEAN FAMILY LAW SERIES

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

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)

**BRUSSELS II BIS**

**Its Impact and Application  
in the Member States**

**KATHARINA BOELE-WOELKI  
CRISTINA GONZÁLEZ BEILFUSS**  
Editors

*Distribution for the UK:*  
Hart Publishing Ltd.  
16C Worcester Place  
Oxford OX1 2JW  
UK  
Tel: + 44 1865 51 75 30  
Fax: + 44 1865 51 07 10

*Distribution for Switzerland and  
Germany:*  
Stämpfli Verlag AG  
Wölflistrasse 1  
CH-3001 Bern  
Switzerland  
Tel: + 41 (0)31 300 63 18  
Fax: + 41 (0)31 300 66 88

*Distribution for North America:*  
Gaunt Inc.  
Gaunt Building  
3011 Gulf Drive  
Holmes Beach  
Florida 34217-2199  
USA  
Tel: + 1 941 778 5211  
Fax: + 1 941 778 5252

*Distribution for other countries:*  
Intersentia Publishers  
Groenstraat 31  
BE-2640 Mortsel  
Belgium  
Tel: + 32 3 680 15 50  
Fax: + 32 3 658 71 21

Brussels II bis. Its Impact and Application in the Member States  
Katharina Boele-Woelki en Cristina González Beilfuss (editors)

© 2007 Intersentia  
Antwerpen – Oxford  
<http://www.intersentia.com>

ISBN 978-90-5095-644-4  
D/2007/7849/28  
NUR 822

No part of this book may be reproduced in any form, by print, photoprint, microfilm or any other means, without written permission from the publisher.

## PREFACE

On the 5<sup>th</sup> of October 2005 the University of Barcelona organised a workshop on the application of EC Regulation No. 2201/2003 of 27<sup>th</sup> November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility (Brussels II bis), which had entered into force in March of the same year. At this workshop different speakers reported on their national systems, namely PETER MCELEAVY for the United Kingdom, JOËLLE LONG for Italy, MARTA PERTEGÁS for Belgium, CLAUDIA RAMSER for Germany, BEATRIZ AÑOVEROS for Spain, AGNIESZKA KOZAKIEWICZ for Poland and BOEL WERMELIN-BORJESSON for Sweden. ALEGRIA BORRÁS and the editors delivered presentations of a more general character regarding the unification of the rules for cross-border family relationships as well as the harmonisation of substantive family law in Europe. The workshop was held in the framework of the programme *Uniform Terminology of European Private Law* (HPRN-CT-2002-00229).

Shortly after this workshop the editors decided to expand the project and to include reports from all the Member States in which the Regulation was in force. Unfortunately, the editors were not able to find suitable national reporters in Latvia and Cyprus. Although reports from Hungary and Portugal were agreed upon, they were eventually not delivered.

This book consists of two parts. Part I commences with a general introduction to the Europeanisation of Private International Law in family matters. The second contribution contains the comparative synthesis which the editors drafted concerning the information provided in the national reports. These reports are enclosed in Part II. The editors would like to thank the authors for their very valuable contributions. They provide a reliable insight both into the changes which the entry into force of Brussels II bis has caused in the Member States as well as into the current problems and concerns regarding its impact and application.

KATHARINA BOELE-WOELKI and CRISTINA GONZÁLEZ BEILFUSS  
Utrecht/Barcelona, December 2006



## LIST OF AUTHORS

*Dr. Beatriz Añoveros*

Lecturer of Private International Law, Universitat Ramon Llull, Barcelona, Spain

*Prof. Katharina Boele-Woelki*

Professor of Private International Law, Comparative Law and Family Law at the Molengraaff Institute for Private Law, Utrecht University, The Netherlands  
Chair of the Commission on European Family Law

*Prof. Alegría Borrás*

Professor of Private International Law, University of Barcelona, Spain

*Dr. Peter Binder*

LL.M. (King's College), Attorney at Law, Vienna, Austria

*Prof. Evangelos Vassilakakis*

Faculty of Law, University of Thessaloniki, Greece

*Dr. Ruth Farrugia*

Advocate and Senior Lecturer, Faculty of Laws, University of Malta

*Prof. Aleš Galič*

Faculty of Law, University of Ljubljana, Slovenia

*Estelle Gallant*

Maitre des conferences, University Paris I, France

*Prof. Cristina González Beilfuss*

Professor of Private International Law, University of Barcelona, Spain  
Member of the Commission on European Family Law

*Dr. Miloš Hatapka*

Directorate-General Justice, Freedom and Security, European Commission

*Dr. Markku Helin*

Counsellor of Legislation, Ministry of Justice, Finland

*Dr. Vassilios Kourtis*

Faculty of Law, University of Thessaloniki

*Agnieszka Kozakiewicz*

LL.M., Ph.D candidate, University of Silesia, Poland

*Joëlle Long*

PhD Civil Law, Research fellow, Law Department, University of Turin, Italy

*Prof. Peter McEleavy*

University of Dundee, Scotland

*Prof. Valentinas Mikelėnas*

Faculty of Law, Vilnius University, Lithuania

Member of the Commission on European Family Law

*Dr. Ellen Mostermans*

Associate Professor of Private International Law at the Molengraaff Institute of Private Law, Faculty of Law, Utrecht University, The Netherlands

*Prof. Monika Pauknerová*

Department of Business Law, Law Faculty of Charles University in Prague, Czech Republic

*Kaisa Parkel*

LL.M., Adviser, Private Law Division of the Ministry of Justice, Estonia

*Prof. Marta Pertegás*

University of Antwerp, Belgium

*Claudia Ramser*

Ph.D. Researcher, Institute for German, European and International Family Law, University of Bonn, Germany

*Prof. Marianne Roth*

Professor of Private law, Civil Procedure and Comparative Law, Department of Private Law, University Salzburg, Austria

Member of the Commission on European Family Law



*Karin Sein*

LL.M., Lecturer in Private international law, University of Tartu's Institute of Law,  
Estonia

*Prof. Geoffrey Shannon*

Senior Lecturer in Child and Family Law, Law Society of Ireland  
Member of the Commission on European Family Law

*Prof. Evangelos Vassilakakis*

Faculty of Law, University of Thessaloniki, Greece

*Boel Wermelin-Börjesson*

LL.M., Associate Judge, Court of Appeal in Jönköping, Sweden

*Jean-Claude Wiwinius*

Premier conseiller à la Cour Supérieure de Justice, Luxembourg



# TABLE OF CONTENTS

PREFACE ..... v

LIST OF AUTHORS ..... vii

## *PART ONE. THE EUROPEANISATION OF PRIVATE INTERNATIONAL LAW IN FAMILY MATTERS*

### FROM BRUSSELS II TO BRUSSELS II BIS AND FURTHER

ALEGRÍA BORRÁS ..... 3

### THE IMPACT AND APPLICATION OF THE BRUSSELS II BIS REGULATION IN THE MEMBER STATES: COMPARATIVE SYNTHESIS

KATHARINA BOELE-WOELKI and CRISTINA GONZÁLEZ BEILFUSS ..... 23

## *PART TWO. THE IMPACT AND APPLICATION OF BRUSSELS II BIS IN THE MEMBER STATES*

### AUSTRIA

MARIANNE ROTH and PETER BINDER ..... 43

### BELGIUM

MARTA PERTEGÁS ..... 57

### CZECH REPUBLIC

MONIKA PAUKNEROVÁ ..... 69

### ESTONIA

KAISA PARKEL and KARIN SEIN ..... 83

<b>FINLAND</b>	
MARKKU HELIN .....	91
<b>FRANCE</b>	
ESTELLE GALLANT .....	103
<b>GERMANY</b>	
CLAUDIA RAMSER .....	123
<b>GREECE</b>	
EVANGELOS VASSILAKAKIS and VASSILIOS KOURTIS .....	133
<b>IRELAND</b>	
GEOFFREY SHANNON .....	145
<b>ITALY</b>	
JOËLLE LONG .....	167
<b>LITHUANIA</b>	
VALENTINAS MIKELËNAS .....	185
<b>LUXEMBOURG</b>	
JEAN-CLAUDE WIWINIUS .....	199
<b>MALTA</b>	
RUTH FARRUGIA .....	205
<b>THE NETHERLANDS</b>	
P.M.M. MOSTERMANS .....	217

<b>POLAND</b>	
AGNIESZKA KOZAKIEWICZ .....	237
<b>SLOVAKIA</b>	
MILOŠ HATAPKA .....	247
<b>SLOVENIA</b>	
ALEŠ GALIČ .....	261
<b>SPAIN</b>	
BEATRIZ AÑOVEROS .....	279
<b>SWEDEN</b>	
BOEL WERMELIN-BÖRJESSON .....	297
<b>UNITED KINGDOM</b>	
PETER MCELEAVY .....	309

