

THE FUTURE OF FAMILY PROPERTY IN EUROPE

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Edited by

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PREFACE

The law relating to family property in Europe is at a key stage in its development. Unified conflict of law rules were adopted in December 2010 implementing enhanced cooperation for 14 Member States in relation to divorce, further proposals for the unification of private international law relating to matrimonial property and succession are being developed, and interest is growing in harmonisation of the substantive law itself.

The fourth conference of the Commission on European Family Law (CEFL) held in Cambridge in early April 2010 brought together around 180 participants from 32 jurisdictions in Europe and beyond to address a wide range of issues relating to the future of family property in Europe. This large and diverse group generated a stimulating discussion across the three days of the conference, prompted by the contributions of our conference speakers, most of which are produced in this volume.

The volume consists of eight parts. *Part 1* contains the keynote address which began the conference proceedings given by Lord Justice Thorpe, Head of International Family Justice for England & Wales. As was fitting for a European conference taking place in the UK, Sir Mathew Thorpe's address provoked important debate about the challenges inherent in common law and civil law jurisdictions co-operating in this sphere, a theme taken up again in *Part 8*, the closing remarks from the local conference organisers Jo Miles and Jens M. Scherpe. *Part 2* of the book examines in greater depth the issue of matrimonial property law in Europe, Professor Pintens' chapter providing an examination of the variety of regimes currently operating in Europe, while Professors Boele-Woelki and Jänterä-Jareborg preview the Commission on European Family Law's own attempts to develop Principles on which the harmonisation of domestic laws in this field might be based. *Part 3* takes us on to the question of party autonomy, both within and without marriage, in the marital context examining the extent to which parties are free by agreement to contract out of the default regime or remedies. Professor Dethloff's paper surveys the treatment of marital agreements across Europe, while Professor Cooke discusses the issues from the perspective of a law reformer in England & Wales. Professor Garrison brings an American and non-marital perspective to family property, addressing the regulation of cohabiting relationships and the significance of party autonomy in that sphere. *Parts 4 to 6* of the volume contain several of the papers from the conference

workshops, in which early career researchers presented their work on three themes: the protection of older person in the law; freedom of testation and the protection of family members; and child maintenance. *Part 7* collects together all of the conference papers, both from plenary sessions and workshops, from the world of private international family and succession law, including Professor González-Beifuss's survey of European unification of private international law and Dr Dutta's examination of the draft Succession Regulation.

The conference organisers and editors of this book are immensely grateful to a number of individuals and organisations. The conference was generously supported by funding from the British Academy, and by sponsorship from Intersentia Publishing, the International Family Law Group, Charles Russell, Mills and Reeve, and Mohr Siebeck. The editorial team were greatly assisted by the work of Emily McGregor and Peter Morris. Thanks also to the staff of the Law Faculty at the University of Cambridge, the University Centre catering team, Destination Cambridge, the host colleges, and our conference assistants, without whom the conference would not have run so smoothly.

Katharina Boele-Woelki, Jo Miles and Jens M. Scherpe
Utrecht and Cambridge, January 2011

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