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EUROPEAN CHALLENGES IN CONTEMPORARY FAMILY LAW

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PREFACE

What constitutes the European challenges in contemporary family law? The third CEFL Conference in Oslo from 7–9 June 2007 brought together more than 100 participants from 30 countries to provide answers to this question by addressing a wide range of issues that currently engage family lawyers in Europe. The conference was organised along the same lines as the two previous CEFL conferences held in Utrecht in 2002 and 2004. According to the CEFL, it is of the utmost importance that young researchers are invited to the general discussions concerning the process of the harmonisation of family law in Europe. Therefore, the CEFL has deliberately chosen two categories of presenters: recognized authorities on different aspects of family law on the one hand, and young researchers who have been selected after a call for papers, on the other. In this volume the reader will find their final written contributions.

The volume consists of five parts. Part one deals with THE HARMONISATION OF FAMILY LAW in Europe, especially the Nordic countries, and the United States. The general usage of the concepts of human rights, harmonisation and unification is among the subjects addressed in this part. Part two – CHILDREN AND THEIR PARENTS – deals with general aspects of the human rights of children, as well as specific questions arising from new family forms and the new technology of artificial fertilisation. This part relates to CEFL's second working field, and the Principles regarding parental responsibilities, which were published in no. 16 of this series, are presented. Part three contains contributions on IRREGULAR MARRIAGES AND THE INFLUENCE OF MULTICULTURALISM, especially Muslim traditions, in different areas of family law. The fourth part – (PROPERTY) RELATIONS BETWEEN SPOUSES AND COHABITANTS – deals with a broad range of key questions in connection with economic settlements upon the dissolution of marriage and cohabitation. Finally, the fifth part is dedicated to CROSS-BORDER FAMILY RELATIONSHIPS and the different legal instruments in this area of private international law.

These issues represent European challenges in contemporary family law and they are, in different ways, related to the remarkable change in family life that has taken place in Europe in the last three or four decades. Hardly any other field of law has experienced such profound and deep social and demographic changes as family law in this short period of time: an explosion in the divorce rates and extramarital cohabitation and the resulting increase in the number of children born out of wedlock; women joining the paid work force *en masse*, influencing,

among other things, parental roles and property relations among partners; and – more recently – the growing social acceptance of same-sex relationships and new techniques of artificial insemination are just a few important features of this development. We are in the middle of a "silent revolution" in family life in Europe. And while these transformations take place, we experience a vast cross-border movement of people – both within Europe, and in the form of migration from other continents.

Some would maintain that it is impractical to develop principles of family law in such a period of transition. Others would argue that it is more important than ever to provide basic guidelines for a common legal framework for family life in Europe. As we know, different opinions exist on these and other questions of harmonisation. The contributions in this volume will, hopefully, enrich and inspire these discussions.

The 3rd CEFL conference was organised in co-operation with the Department of Private Law at the University of Oslo, and was largely financed by the Nordic Council of Ministers, the Norwegian Ministry of Justice and the Norwegian Ministry of Children and Equality. We would like to extend our heartfelt gratitude to all these four institutions for their substantial contributions.

Katharina Boele-Woelki and Tone Sverdrup
Utrecht and Oslo, December 2007

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Katharina Boele-Woelki

1. DETERMINING THE STRUCTURE

This book contains twenty contributions which were delivered at CEFL's 3rd conference that was held in Oslo from 7–9 June 2007. More than half of the authors were selected by the organizers upon a call for papers. They belong to the young researchers who presented their papers in three parallel working groups. Their presentation skills were striking. Most of them had prepared a power point presentation, which is undoubtedly a supportive element today, but who had no problem at all in continuing after the beamer and the computer suddenly malfunctioned. The other half of the authors were selected by the organizers. They presented their papers in plenary sessions. The conference structure has not been followed in this book. Instead a thematic approach has been chosen and all contributions have been integrated into five selected themes: (1) The Harmonisation of Family Law; (2) Children and their Parents; (3) Irregular Marriages and the Influence of Multiculturalism; (4) (Property) Relations between Spouses and Cohabitants; and (5) Cross-border Family Relationships. This structure has been adapted in these concluding remarks. They are primarily restricted to some aspects of the plenary session contributions which caught the author's interest.[1]

[1] By way of an apology: The closing remarks at CEFL's third conference on European Challenges in Contemporary Family Law have been written by someone who was partly involved in the organization of this conference, in particular in the selection of the topics to be discussed and the selection of the speakers. In addition, a contribution by this author is included in this volume. Initially, she was not supposed to provide the overall conclusions which by their nature are always based on a personal perspective. Such a task should primarily be carried out by someone who as an outside observer can distance oneself from the organization, its programme, its speakers and their presentations/contributions in order to guarantee a critical assessment. Due to the fact that the author is strongly involved in the CEFL, this requirement has not been fulfilled in respect of the activities of this commission. However, pressing personal circumstances involving a colleague who was asked to summarize and to comment unfortunately prevented him from doing so. Therefore, the general rules of impartiality and non-involvement concerning the person providing the concluding remarks were not adhered to.

2. THE HARMONISATION OF FAMILY LAW

Different approaches and areas in the harmonization and unification process of family law are represented in the first part. First of all, a clarification of the terminology is essential. It is regrettable that not only in the field of (international) family law the terms "unification" and "harmonisation" of the law are often used incorrectly. The "unification" of the law leads to the application of identical rules. These uniform rules are to be applied, for instance, in all national systems which are bound by either the international or the regional instrument which contains these rules. Consequently, the future instruments in the field of European Private International Law (PIL) are instruments that will make uniform and not only harmonize the PIL rules in Europe. The same rules are to be applied in all member states, at least in those which will be bound by the regulations. In contrast, the "harmonisation" of the law is less far-reaching. Similar rules indicate that the laws of the legal systems in a specific area are in harmony with each other. The differences are reduced to a minimum. Peter Lødrup pays attention to this terminological issue. In his view the term unification better captures the aims and results of the Nordic cooperation in the field of family law. When one argues for or against harmonisation in the Scandinavian countries – he continues – it is more a discussion for or against a higher degree of unification. At the CEFL's 1st conference in 2002, Esin Örücü posed the question whether the Nordic cooperation was either a success or a failure. She could not provide an answer. At the Oslo conference, Peter Lødrup could.[2] He clearly explains why the work of the Nordic Council is to be considered of great importance. He favours the unification of certain areas of family law. As an outside observer this author wonders about the following: Given the fact that three Scandinavian countries also belong to the EU the question arises whether the unification of Nordic family law is the best way to proceed. The answer should undoubtedly be provided by our Nordic colleagues and Peter Lødrup is also aware of this aspect when he states that for the Nordic countries the days of harmonization and even unification are not over, but, of course, European integration will add an uncertain element in considering the future. In this respect it is worth mentioning that recently Thomas Eeg[3] from the University of Bergen has critically assessed the future of the Nordic cooperation by referring in particular to the results of the CEFL. He even argues that the Nordic cooperation should be given a lower priority than the harmonization of family law within Europe. Within the CEFL, which is no more than an academic

[2] See also Lund-Andersen, I., Approximation of Nordic Family Law within the Framework of Nordic Cooperation, in: Antokolskaia, M., *Convergence and Divergence of Family Law in Europe*, European Family Law Series no. 18, p. 51–61.

[3] Eeg, T., Bør nordisk familieformuerett harmoniseres? In: T. Frantzen, J. Giertsen, G. Cordero Moss (eds.), *Rett og toleranse - Festskrift til Helge Johan Thue 70 år*, Gyldendal akademisk Forlag, Oslo (2007) p. 60–76.

initiative, the desirability and feasibility of the harmonization of family law in Europe has always been discussed intensively. However, the results of the CEFL, its Principles on European Family Law, are only aimed at contributing to this process. CEFL has to wait and see whether its models will be used as a source of inspiration by those who, for instance, have competence to legislate.

However, the process of harmonizing family law in Europe has undeniably been and will continue to be further influenced by human rights and in this process the ECHR and the decisions of the European Court in Strasbourg play central roles. Dagmar Coester-Waltjen makes a very successful and original attempt to draw a demarcation line between human rights as such and other rights and values. She raises the question whether the term marriage may be used if we speak about the formalization of a same-sex relationship. Dagmar Coester-Waltjen holds the view that this term should be reserved to different sex couples. However, she admits that the rights and duties of a formalized relationship might be completely identical to the consequences of marriage and only the indication of such a relationship as a marriage is not possible. Well, what's in a name if there are no differences between the legal consequences? How can one justify that relationship A is called A and relationship B is called B only because the gender of the couples differs? In this author's opinion there are hardly any convincing arguments that justify the difference in terminology. In the Netherlands, Belgium, and Spain – probably Sweden will join the club – no problems have arisen in this respect. However, there is an argument also in favour of Dagmar Coester-Waltjen's approach. The legal recognition of same-sex relationships is a political question. In more socialist and liberal systems it turned out to be possible to introduce either new institutions which are similar or identical to marriage or to open up marriage to same-sex couples. More conservative governments oppose or heavily argue against any legal recognition. Compromises have been reached. In many countries in Europe new institutions have been introduced in addition to marriage. The English civil partnership, for instance, is identical to the institution of marriage. The introduction of new institutions was the only alternative which was finally accepted. If this distinction would not have been made homosexual couples would not have received the legal recognition which they deserve. The introduction of a new and differently labelled institution is a compromise for the time being. New countries will opt for this distinction, while others will immediately or at a later stage open up marriage to these couples. The Dutch situation demonstrates that homosexual couples only had to wait for three years before they could transform their registered partnership into a marriage. 'Marriage is a wonderful institution, but who wants to live in an institution?' This well-known quote originates from Groucho Marx. It reminds us of the symbolic meaning of marriage. Homosexual couples do want and they do have the right to live in an institution

that is called marriage. The symbolism is of great importance for them. Why should they be derived of its symbolic meaning?

In the discussion on the harmonization of family law in Europe, the American view should always be included. Where does the United States stand on the harmonization process concerning its family laws? In comparison with Europe, are similar developments discernable? Robin Fretwell Wilson provides some interesting answers. She illustrates that there are still huge differences among the 51 federal states when it comes to family law. The American Law Institute promotes the simplification and clarification of the law by providing model regulations. Five years after the publication of the ALI Principles of the Law of Family Dissolution which contains recommendations as to how the law in this field could be harmonized, the differences remain, however. To date, they have not been introduced in any state. Besides, they have been partly critically received. Robin Fretwell Wilson perfectly demonstrates how controversial cases are solved if the ALI Principles are taken into account. Her overall assessment of the ALI Principles carries a negative tone. Are all her views shared by everyone? To this author's knowledge and awareness the scientific discourse also includes family law scholars in the United States who take a more positive view of the ALI Principles.[4] At any rate, a comparison between these Principles and the CEFL Principles would be an interesting project also in respect of the harmonization of family law from a global perspective. They are comparable.

In conclusion it is submitted that the comparison of the harmonization of family law in the United States, the Nordic countries and in Europe reveals that different stages have been reached. Both the United States and the Nordic cooperation have, however, one big advantage, admittedly the Nordic cooperation to a lesser extent: The harmonization process is not hindered by so many different languages. In Europe, we first have to agree on the terminology in a language which for many is first not their native language and, second, is different from the language in which one's legal education has been received and the law is practised. These terminological problems are extremely difficult. They are, for instance, currently being again experienced by the CEFL in its drafting of the questionnaire on property relations between spouses.

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4 See for instance: Bartlett, K.T., 'Preference, Presumption, Predisposition, and Common Sense: From Traditional Custody Doctrines to the American Law Institute's Family Dissolution Project,' 36 *Fam.L.Q.* 11 (2002) pp. 11–12, who discusses well-known U.S. family law scholars Robert Levy, Ira Ellman, Herma Hill Kay, Gary Skoloff and John Gregory, who were involved in drafting the ALI Principles; Schepard, A.I., *The Unfinished Business of Modern Court Reform: Reflections on Children, Courts and Custody*, 2004; Coombs, M., 'Insiders and Outsiders: What the American Law Institute Has Done for Gay and Lesbian Families', 8 *Duke J. Gender L.& Pol'y* (2001), p. 88.

3. CHILDREN AND THEIR PARENTS

This part of the book contains six contributions. The concluding remarks mainly focus on the eloquent contribution by Lucy Smith on recent developments in child law, in particular the rights of the child. The most important instrument here is the Convention on the Rights of the Child (CRC). This author completely agrees with most of her views, especially with her interpretation of the best interest principle. In respect of two aspects, however, a different view can be held.

First, she argues that the *travaux préparatoires* of the CRC are not of any great assistance. The drafters were an open-ended working group who held different opinions on many important issues, and the final draft in many ways represented a compromise. This is a more general aspect of how to interpret international instruments. In this respect it is commonly acknowledged that explanatory reports to international conventions are one of the most important sources of information regarding the issues addressed in conventional rules. How should they be interpreted? What were the objectives of the drafters? What is the rationale of the different provisions? It goes without saying that international instruments are living instruments and social developments should be taken into account, but explanatory reports which are at our disposal in the case of international instruments remain important. This can be illustrated by the second aspect which is also debatable.

According to Lucy Smith the wording of Article 7 CRC does not support the understanding that it gives the child a right to information about its biological parents because it would not have been the intention of the drafters to say anything about the identity of the biological father in cases of sperm donation. In particular, this restrictive interpretation provides food for thought. It intrigues this author who at Utrecht University is supervising Richard Blauwhoff's comparative PhD research which addresses 'The Right of the Child to Know his Origins'. In his view the following arguments should be taken into account. Whereas the *travaux préparatoires* with respect to Article 7 CRC do not indicate that the States Parties had contemplated a prohibition or limitation of donor anonymity, it cannot be concluded either that most States Parties expressly wished to exclude such an extensive interpretation. In fact, the General Guidelines call on States Parties to specify the measures they have taken to enable the child to know her or his 'parents'. In addition, Article 7 CRC is multi-interpretable because of the absence of a definition of the term '*parent*' coupled with the insertion of the words '*as far as possible*'. Article 8 CRC, proposed by the Argentine delegation, refers to the child's right to preserve her or his identity. In an extensive interpretation of identity, that latter provision may therefore also be regarded as a basis for

the right to know one's origins. Thus, the original Argentine proposal conceptualised the child's identity as something deeper and more encompassing than the protection of cornerstones of the child's legal identity (name, nationality and legal parentage) with reference to the '*inalienable right to retain his true and genuine personal, legal and family identity.*' When deprived of important elements of identity, Argentina added that '*in particular, this obligation of the State includes restoring the child to his blood-relations to be brought up.*' On the basis of country reports of the Committee on the Rights of the Child, Hodgkin and Newell hold that it is reasonable to assume that the child's right to know within the meaning of Article 7 CRC encompasses three forms of parentage: the genetic parents, the birth parents and the psychological parents.[5] In view of expected problems with the practice of secret adoption, the words '*as far as possible*' were proposed by Germany and the United States, even though the latter has not ratified the Convention. For the same reason Poland also objected to a more absolute definition. The Czech Republic expressed reservations with respect to both artificial insemination and secret adoption. Only the insertion of the words 'as far as possible' proved acceptable to all States Parties, although some states perceived that their inclusion could lead to arbitrary limitations to the right to know. Furthermore, it seems significant that in relation to the Norwegian report, the Committee on the Rights of the Child mentioned the '*possible contradiction*' between '*the right to know his or her genetic origins*' and the policies of State Parties '*in relation to artificial insemination namely in keeping the identity of donors secret*'.[6] In addition, in relation to the French practice of permitting mothers to give birth anonymously, the Committee has tentatively voiced the criticism that this '*might not fully reflect the provisions of the Convention, particularly its general principles*'.[7] From such comments it may be inferred that the right contained in Articles 7 and 8 may indeed very well include knowledge of *genetic* parentage and that the words '*as far as possible*' as contained in Article 7 CRC should be interpreted as requiring a significant effort on the part of States Parties to enable children to have access to such information, regardless of the way in which they have been conceived, the circumstances under which they have been born or the form of their legal parents' relationship.

The common point of departure of the other contributions belonging to this part has not been equality between parents regarding their children, but equality between all children in respect of their parents. This line has been drawn by Balázs Somfai, Mariel Dimsey, David Hill and Machteld Vonk in respect

5 Hodgkin R./Newell P., *Implementation Handbook for the Convention on the Rights of the Child* (2002), p. 105.

6 Ibid, p. 107.

7 France IRCO, Add. 20, par. 14.

of the legal position of children in different-sex and same-sex relationships. The idea of strengthening their position is generally supported. Due to the fact that a third party is involved the new term 'multi-parent families' has been created. Further, what should be the meaning of 'intention' as a legal basis of parenthood? The views differ; however, it is important that the differences in the legal status of the parents should not be decisive but only the need to protect children. This is also the primary consideration of the CEFL Principles on Parental Responsibilities which in this part of the book are introduced and explained by this author.

4. IRREGULAR MARRIAGES AND THE INFLUENCE OF MULTICULTURALISM

Three contributions belong to this part. In discussing the decision of the ECHR on 13 September 2005 in the Case of B. and L. v. the United Kingdom where the Court decided that the prohibition on parents-in-law marrying children-in-law under United Kingdom law constitutes a violation of Article 12 ECHR, Maebh Harding addresses the issue of prohibited degrees of affinity as a restriction on the right to marry. In his comparative study which includes Irish, English and French law the author critically analyses the law on marriage within prohibited degrees of affinity whereby the historical development of the respective rules plays an important role. In many other European countries these bars on marriage were lifted some years ago as serving no purpose.[8] According to Maebh Harding it is clear that the prohibitions on marriage between those related by affinity have changed from being a universally understood element of marriage itself to being a restriction on marriage. He concludes that this change is yet another example of how the right to marry is growing stronger and the restrictions on the right to marry are constantly being eroded.

The other two contributions address the influence and meaning of Islamic law within Western society. During the last 30 years many European countries have experienced through immigration a considerable enlargement of the Muslim population. The clash of cultures often causes legal problems. Mosa Sayed explores the question of how the Islamic *mahr* should be qualified within a European jurisdiction. He makes special reference to the Swedish situation where the categorization of the Muslim dower has caused considerable difficulties. The author argues that the *mahr* should be qualified as a special agreement of its own separated from both maintenance and the spouses' matrimonial property regime.

8 See in general on the influence of the decisions of the ECHR on national family law, Van Grunderbeeck D., *Beginselen van personen- en familierecht. Een mensenrechtelijke benadering*, 2003.

When it comes to cross-border relationships he favours the application of the *lex loci contractus* rule.

Aspasia Tsaoussi and Eleni Zervogianni remind us that multiculturalism is a very clever term to use when trying to explain religious and cultural differences – but it does not hold up well when trying to account for weak or non-existent rights. They demonstrate – by taking Greece as an example – that in Islamic subcultures living in countries of the West, freedom of religion has become the legitimate excuse for Muslim women's inferior legal and social status in relation to men. According to this author's opinion their general conclusion that Muslim women are twice disadvantaged: once as members of a religious minority (as Muslims) and twice as members of a social minority (as women) does not only apply to the situation in Greece but to many other European countries. If Muslim women were free to choose, they would no doubt choose the legal system that would offer them greater guarantees for the protection of their rights. This author agrees that the State must choose for Muslim women and secure their access to any and all mechanisms of legal redress because they are not free to choose.

5. (PROPERTY) RELATIONS BETWEEN SPOUSES AND COHABITANTS

Due to its increased importance the non-formalized relationship is a highly debated legal issue. Crucial are the following questions: When does cohabitation start and when does it end? Should a financial relief system be introduced? Göran Lind provides a global comparative overview of the different legal constructions which are currently applied. He suggests making a compromise between the need for protection on the one side, and the freedom of the parties to choose, on the other. Legislation should only provide basic minimum protection and parties, in order to obtain more extensive protection, should themselves actively take legal measures by entering into a contract, drafting a will or marrying. In addition to Göran Lind's comprehensive overview Jo Miles explores the different European approaches (including other common law jurisdictions outside the EU) to cohabitation, whereby she includes the legislative measures that have recently been taken in order to improve the legal relationship of same-sex couples. She addresses three interrelated sets of questions: (1) Should cohabitants simply be subject to the same laws as spouses in the relevant jurisdiction? If not, (2) what sort of regime or remedy should be adopted for cohabitants? And finally (3) on what principles should that regime or remedy be based? By taking in particular both recent Scottish legislation and the report of the English Law Commission, which in July 2007 reported on cohabitation and its financial consequences when a relationship

breaks down, into account the author argues that the opt-out model is the better option in the particular context of financial relief upon the breakdown of a relationship. This model has been adopted within Europe, for example by Sweden and Scotland, and has recently been recommended for Ireland and for England and Wales. Consequently, a default regime is to be provided by the national legislator. In this respect it is striking that Jo Miles refers to recent judicial decisions emanating from English courts. These decisions (*White v. White, Miller v. Miller, McFarlane v. McFarlane* and *Charman v Charman*) have already gained a great deal of attention also outside the United Kingdom. In Anne-Florence Bock's contribution, for instance, they are extensively discussed and compared to the Swiss matrimonial property regime. According to Jo Miles the three principles that have been identified to guide the court's assessment of what is "fair" in divorce also provide a useful menu to be considered when devising a new scheme for cohabitants in all European jurisdictions. These principles are: (1) sharing or partnership; (2) compensation for an economic disadvantage which has arisen as a result of the parties' contributions to the relationship, for example, as a result of one spouse giving up paid employment in order to care for children; and (3) the needs of both parties. The proposal raises many interesting questions at different levels. Not only on the national level is it to be considered whether cohabitants should be treated like spouses, e.g. that the matrimonial property regime should also apply to non-formalised relationships. Here a choice is to be made between an opt-in or opt-out model as earlier discussed. When we enter the European level it becomes more difficult. The drafting of a new scheme for cohabitants in all European jurisdictions will very much depend on whether a European matrimonial property scheme can and will be established. At this level the comparative perspective reveals that within Europe several completely different regimes are to be taken into account, such as Community of property, Community of accrued gains, Participation in acquisitions, a Deferred community of property, the Separation of property and the Separation of property together with distribution by the competent authority. Given this great variety of solutions it will be impossible to draft one single European matrimonial property regime. Instead, the devising of two systems is more feasible, one based on community and the other based on separation. Subsequently, the following question to be answered is whether the European matrimonial property regimes are also suitable as a European scheme for cohabitants or whether we should follow Jo Miles' proposal which is more oriented towards the adoption of national principles – in her case English law. Anyhow, these questions undoubtedly belong to the most important European challenges in today's family law. Furthermore, it should be noted that both contributions in this book on the legal position of cohabitants clearly demonstrate that non-formalised relationships are always compared with formalized relationships, predominately with marriage. This was finally the decisive argument why

the CEFL did not continue its work in the field of cohabitation. First, a European framework which addresses the property relationship of spouses is needed. CEFL's provisional planning in this respect is as follows: The questionnaire on property relations between spouses which contains a total of 201 questions was finalised in December 2007. The national reports are to be submitted in the summer of 2008, a first investigation of the issues that should be addressed in the Principles on Property Relations between Spouses will take place at the end of 2008 whereas the final result is only scheduled for the end of 2010. In the drafting process of the CEFL Principles the already mentioned contribution by Anne-Florence Bock and the one by Anna Horínová on property relations between spouses in the legislation of the Czech Republic and in that of selected post-communist countries will prove to be useful.

6. CROSS-BORDER FAMILY RELATIONSHIPS

The current private international law aspects of cross-border family relations have been systematically and thoroughly addressed. In particular, Ted de Boer and Michael Hellner are very critical about the proposals of the European Commission in the field of divorce and maintenance law which are currently under discussion. Mainly the subsidiarity and proportionality of the new instruments give rise to considerable doubts. Also in this author's opinion the proposed amendment of the Brussels II bis Regulation should determine the applicability of the *lex fori* as the default rule when the spouses have not chosen the applicable divorce law. This is the Scandinavian proposal which has so far been rejected. However, every effort should still be undertaken to achieve this result. The final version of the amendment of Brussels II bis is expected to be published in the first half of 2008.

Apart from this principal concern regarding the conflict of law rules, according to this author's opinion the abbreviations of the new and amended instruments are a matter of concern. Uniform terminology is needed. Reference to *Rome III, IV* and *V* or *Brussels II ter* apparently becomes preposterous. In fact they do not say anything and become misleading. The amendment of *Brussels II bis* or *Brussels II a* or *Brussels II revised* will also contain conflict of law rules whereas the name *Brussels* so far only refers to international procedural law. How can this problem be resolved? According to this author's view it is desirable to only have one Private International Law regulation for cross-border family matters. This instrument should include rules on jurisdiction, conflict of law, recognition and enforcement and cooperation between central authorities. By the way, in addition to such a regulation on family matters the European legislator might also compile

the *Brussels I*, the *Rome I* and the *Rome II* regulations and put them together into one European instrument: the Private International Law Regulation in Civil and Commercial Matters. All this should be based on a common European Private International Law methodology which should be established.

Private international law issues with regard to the Green Paper on the conflict of laws in matters concerning matrimonial property regimes including the question of jurisdiction and mutual recognition are critically analysed by Kathrin Kroll. Her guiding principles are certainty and predictability. It is to be expected that the future EU instrument in this field will introduce party autonomy. However, the parties are often not aware of the possibility to make a choice. How can relevant and correct information in this respect be provided? Should notaries and civil registrars be involved? Dutch practice, for instance, shows that even for a specialist in private international law it is very difficult to understand the content of the leaflets which are widely distributed in the Netherlands. Finally, Maria Álvarez Torné addresses the dissolution of the matrimonial property regime and the succession rights of the surviving spouse in private international law. She concludes that adjustment problems between succession and matrimonial property when dealing with succession rights of widowed spouses should be dealt with in the future European instrument, which intends to unify the law applicable to succession. Also in her contribution the information provided to spouses and partners about their possibility to select the applicable matrimonial property law and succession law plays an important role.

7. CEFL'S NEXT CHALLENGE: ITS 4TH CONFERENCE

Editing the conference proceedings and contributing to its content has been highly enjoyable. In addition, the conference itself was again another stimulating, well-organised and interesting event. Hence, there is every reason to continue the successful organisation of CEFL conferences in the field of European Family Law. Therefore, CEFL's 4th conference will be organised along the same lines as its predecessors. It will take place in Cambridge in 2010 in co-operation with Jo Miles and Jens Scherpe.