

Recent Developments in European International Family and Succession Law

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This article deals with the recent development of EU regulations of the Private International law aspects of divorce, property issues of international couples and succession. The Regulation in relation to divorce and legal separation (Rome III) was already adopted in December 2010 and will apply from 21 June 2012. Unlike the Commission's original proposal, the enhanced co-operation measure concerns only applicable law and not jurisdiction, in order to avoid affecting Brussels II bis. Fourteen Member States have signed up to enhanced co-operation. Moreover, there are other Regulation proposals concerning matrimonial regime, property consequences for registered partnerships and succession.

The author tries to show the outline of the Rome III and the other three proposals and examines the trend of EU legislation in family matters and succession. The proposals for matrimonial regimes and for the property consequences of registered partnerships are very similar in structure and in content, but different approaches are proposed in determining the applicable law because of the specific feature of registered partnerships, which are not recognized in all EU Member States and there are many differences in the laws of Member States which have introduced this institution into their legal system. The proposal would apply the law of the State where the partnership was registered. So, except for this proposal for registered partnerships, two new tendencies in EU Family and Succession Law are perceptible. Firstly, the use of habitual residence as the first connecting factor, and secondly, the introduction of party autonomy as a principle. The Background of these tendencies is looked over.

The EU allowed 14 Member States to go the Rome III alone, without having the support of all EU Member States. It will be paid attention, whether the other Member States will wish to join the pioneer group. EU Council is aiming at adoption of other three proposals in 2012.