

/ПРИКАЗИ

Elena IGNOVSKA, PhD*

**Boele-Woelki, Katharina, Maarit Jänterä-Jareborg (eds.).
2025. *What Family Law for Europe?* Antwerp – Cambridge:
Intersentia, 261.**

1. INTRODUCTION

The book *What Family Law for Europe?* belongs to the European family law book series – the forerunner of the pan-European studies dedicated to the harmonization and unification of family and succession law in Europe, under the auspices of the Organizing Committee of the Commission on European Family Law (CEFL). The book is situated within the complex and rapidly evolving field of comparative family law, European private law and human rights. It brings together twenty-seven eminent family law scholars from across Europe for a joint venture – one united by the similarities and challenged by the differences within the European family law project. Given that national family laws differ substantially across the European landscape, the volume utilizes a comparative methodology. Simultaneously, it seeks to

* Professor, Ss. Cyril and Methodius University in Skopje Faculty of Law, North Macedonia, e.ignovska@pf.ukim.edu.mk, ORCID iD: 0000-0002-7118-7664.

identify shared achievements that have catalyzed over the years, gradually leading toward a European consensus. Beyond the general comparative method, the volume occasionally employs a “regional comparative approach”, integrating “look-alike” systems and categorizing family law into several distinct branches: Nordic family law; the Southern European systems; the United Kingdom and its internal disharmony; and former Sovietized European jurisdictions (countries with transitional legal experience). Recognizing the international nature of the audience, the authors provide historical, traditional, and legal backgrounds to explain the context and rationale behind each jurisdiction’s developmental trajectory.

Overall, the authors address several key themes:

1. Working methodology of academic networks: an analysis of the methodology and current research priorities of European academic networks. Particular emphasis is placed on the revitalization of the CEFL Principles of European Family Law in response to recent societal shifts.
2. Modern parental relationships: the emergence of new parental roles arising from diverse partnerships, including same-sex and transgender unions, as well as those facilitated by assisted reproductive technologies.
3. Bioethics and reproductive technology: the legal and ethical challenges posed by new reproductive technologies, including interventions in the embryo, the international gamete market, and the child’s fundamental right to know their origins.
4. Gender recognition and identity: legal gender recognition and the protection of diverse gender identities, including those of non-binary individuals.
5. Adult protection: the delicate balance between individual autonomy and the protection of vulnerable adults.

The central thesis of the volume is that while family laws in Europe feature national differences rooted in diverse traditions, there is a visible and ongoing process of harmonization through convergence. The goal of the publication is to investigate how European family law frameworks are being reshaped by contemporary social changes and a heightened commitment to human rights. The authors argue that through the work of academic commissions and the application of comparative methodologies, such as the

“common core” and “better law” approaches, scholars can catalyze shared achievements into a functional framework for the future of family law in Europe.

Given its comprehensive scope and high-level legal analysis, the book is primarily intended for the international academic community, particularly scholars and researchers specializing in family law and other related disciplines, such as private law, civil law, private international law, and human rights. However, it also serves as an essential resource for legal practitioners, judges, and policymakers involved in cross-border family disputes, as well as postgraduate law students seeking a profound understanding of the developmental trajectory of European legal integration.

It is noteworthy that despite the large number of authors involved, the volume maintains a remarkable and cohesive academic style. Even with the diverse linguistic backgrounds of so many contributors, the writing remains consistently clear and provocative, ensuring a seamless flow that carries the reader from start to finish.

2. SUMMARY

The content is divided into seven parts.

The first section (Introduction) begins with an article by Maarit Jänterä-Jareborg, titled *The Enigma of Family Law and Cooperation in Europe*, which traces the conceptual origins of the book to the *What Family Law for Europe?* conference. This initiative, held under the auspices of the Commission on European Family Law (CEFL), aimed to evaluate the future role of comparative family law and assess programs for the harmonization of European family law, using the Nordic countries as a model. The second article in this introductory section provides an in-depth analysis of the work of academic commissions and expert groups in Europe, such as the CEFL, the ELI (European Law Institute), FL-EUR (Family Law in Europe), the Nordic Expert Group on Family Law, the NorFam (Nordic Centre for Comparative and International Family Law), and RETHINKIN (Rethinking Family and Family Law in the Low Countries). This comprehensive overview is co-authored by Katharina Boele-Woelki, Wendy Scharma, Masha Antokolskaia, Salla Silvola, Elisabeth Hartley, Jens M. Scherpe, and Frederik Swennen.

The second section of the volume focuses on the perceived success story of Nordic family law cooperation. Within this section, Ingrid Lund-Andersen offers an insightful perspective on the historical landscape of Nordic academic collaboration in the first part, followed by an analysis of

the personal and property-related matters arising from new family forms, in the second. Hrefna Friðriksdóttir examines the principles of child law and the contemporary challenges surrounding the dual notions of “becoming” and “being” a parent, while Tone Sverdrup looks ahead to future Nordic cooperation in substantive family law by elaborating on the financial assets accompanying intimate partnerships in comparison with those involved in commercial partnerships.

In the third section, the focus shifts to the methodology for drafting and revisiting the CEFL Principles of European Family Law, aimed at the ultimate goal – legal harmonization. In the first part of this section, Dieter Martiny elaborates on the CEFL’s core objectives and its specific comparative methodology. The research centers on the “functional approach”, focusing on specific legal problems rather than abstract rules, and further integrates the “common core” and “better law” methodologies into the drafting process. The resulting Principles, now encapsulated in several volumes, have evolved over time into a foundational “alphabet” for family law scholars throughout Europe. In the second part of this section, Nigel Lowe and Cristina González Beilfuss provide a comprehensive summary of the five sets of “revisited principles”, evaluating them in light of recent developments recorded in the update reports. This section offers an excellent overview of the follow-up work concerning the initial Principles, specifically regarding divorce, maintenance between former spouses, parental responsibilities, and property relations between spouses. It also covers the property, maintenance, and succession rights of couples in *de facto* unions. The “way ahead” is guided by Nina Dethloff, Barbara Novak, and Felix Leven, who focus on parent-child relationships, new forms of adult partnerships, and the increasingly pressing issue of protection from domestic violence. Their work underscores the dynamic nature of family law and the academic diligence required to address rapid social changes with modern and effective policy solutions.

The fourth section brings together authors to discuss the balancing of autonomy and the protection of vulnerable adults at the international, European, and national levels – the first focal topic of the FL-EUR. Masha Antokolskaia, Wendy Schalma, and Tim Wuyts elaborate on the FL-EUR’s conception and its position within the broader context of European private law. They also detail the methodology used for the network’s inaugural output, which represents pioneering work on the empowerment and support of vulnerable adults. In the context of Europe’s aging societies, they address challenges stemming from the varied meanings attributed to concepts such as legal capacity and *ex lege* measures across different jurisdictions. Finally, Katja Karjalainen focuses on the practical challenges of mutual trust and the recognition of foreign decisions in cross-border adult protection, specifically

under the frameworks of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Hague Protection of Adults Convention, and recent EU proposals.

The fifth section focuses on assisted reproduction techniques, ethics, and the child's right to know their origins. Velina Todorova emphasizes the growing recognition of the right to know one's origins, under Article 7 of the Convention on the Rights of the Child (CRC). She contrasts this with traditionally rooted veils of secrecy intended to protect maternal anonymity and public morals, aimed at avoiding child abandonment, referring to France as a typical example. Jordi Ribot Igualada examines whether Spanish law on artificial reproductive technology acts as a "troublemaker" or a "frontrunner", particularly in light of the growing industry that attracts reproductive tourists from more restrictive European jurisdictions. Finally, Nils-Eric Sahlin provides a futuristic exploration of the ethical and legal challenges posed by synthetic human embryos, artificial wombs, gene editing, and mitochondrial replacement therapy.

The sixth section gathers authors around the topic of legal genders and identities. Jens M. Scherpe highlights the pioneering achievements of Nordic countries and Germany in legal gender recognition as a facet of the right to self-determination. He further elaborates on non-binary genders and the legal developments in parenthood necessitated by gender transitioning. Laima Vaigē focuses on gender identities in what she terms "former Sovietized European jurisdictions", specifically examining four EU Member States: Estonia, Hungary, Lithuania, and Poland. She assigns a descriptive title to each state based on its first letter to characterize its current legal climate: "Expert Committee" (Estonia), "Horror Zone" (Hungary), "Late" (Lithuania), and "Parents' Fault" (Poland). Paula Távora Vítor discusses legal gender recognition in Southern European countries, with a particular focus on Portugal, Spain, Italy, and Malta. She also examines the legal recognition of children's gender identities. Jane Mair concludes this section by addressing the "internal disharmony" within the United Kingdom, further contributing to the discussion on the diversity of legal genders and identities.

The seventh and final part provides concluding reflections and a comprehensive summary. The CEFL President, Professor Katharina Boele-Woelki, asserts that a collaborative European approach, rooted in comparative law research, remains the most effective path for advancing family law. She reflects on the remarkably successful work of the academic cooperation that has shaped the discipline thus far, while also acknowledging the challenges faced, particularly regarding Europe's linguistic diversity. Looking ahead, she identifies three priority themes for future research: (1) parent-child relationships; (2) the legal recognition of new adult relationships, including

non-romantic and community-based arrangements; and (3) the strengthening of protection against domestic violence to ensure the safety and well-being of children. Finally, Boele-Woelki charts the future challenges of European family law within the context of human rights, expressing concern over the potential for these developments to be influenced by political agendas. In the final chapter, Charlotte Mol and Susanna Roßbach conclude the conference discussions by providing further directions regarding the book's central question: What family law for Europe? This is the most dynamic section of the book, as it includes the individual topic presentations, questions raised, evolving debates, and suggestions for future joint research focus, giving the reader the sense of attending the conference in person. This approach effectively involves readers, ensuring those who were unable to attend do not feel they have missed out, while allowing attendees to recapitulate the main ideas or engage in discussions regarding lingering questions.

3. CRITICAL EVALUATION

The primary contribution of this book lies in its ability to bridge the gap between abstract regional theories and concrete national applications, filling a critical void by documenting the evolution of European family law through the lens of both successful models and challenging new frontiers. It provides a vital status report on the “common core” methodology, proving that harmonization is not merely a top-down legislative process but a bottom-up academic and judicial convergence. The book's greatest strengths are its methodological rigor and its impressive breadth of research, which offers a transparent blueprint for future law-making. Furthermore, its geographical thoroughness, spanning the Nordic states and Southern Europe to the Central and Eastern European regions ensures that the research is representative of European diversity, while the inclusion of futuristic bioethics ensures the work remains relevant for years to come. However, some regional disparities exist. Eastern European jurisdictions outside the four mentioned EU states, as well as the Western Balkan countries, receive less granular attention. This occasionally raises questions regarding their representation and how their specific legal particularities might contribute to the ongoing process of harmonization. By leaving these systems largely unintegrated, the volume does not fully engage with how European standards may be received in jurisdictions that are institutionally, politically, and culturally situated at different stages of development – an omission that may ultimately prove counterproductive to its overall goal.

This is especially evident in the conclusions on the final page of the book, which adopt a pessimistic stance regarding whether Romania and Bulgaria will accept the evolving case law following the Court of Justice of the European Union (CJEU) decision in the *Mirin* case and presumably also in the *Pancharevo (V.M.A.)* case. The authors state that these countries “see queer rights purely as a political issue and do not accept legal arguments”. By rightly identifying the intense politicization of these topics in the region, the volume simultaneously manifests its own distinct political stance.

While the authors’ assessment may hold true at the present moment, an eventual approximation must be made possible through sustained joint collaboration in the legal field. This path is even more critical for Western Balkan countries undergoing the process of fulfilling EU accession criteria. Crucially, it must be acknowledged that the EU accession process itself is often less of a purely legal exercise and more of a political process. For these reasons, as countries like North Macedonia, Serbia, Montenegro, Albania, and Bosnia and Herzegovina pursue the approximation of their national legislation to European legal standards, they must navigate these complex political dynamics alongside formal legal integration.

It must be noted that the development of transgender rights in the Nordic region began significantly earlier than in other parts of Europe; consequently, the region offers solutions that are at times avant-garde, yet occasionally controversial. This is because a clear divergence across legal frameworks, particularly regarding the attribution of parental roles to transgender persons, remains evident even among the countries analyzed in this volume. While this creates a degree of dissonance within European family law in practice, it also represents “fast-forward” thinking for certain Western Balkan countries where even same-sex partnerships have yet to achieve legal recognition. In these jurisdictions, the rationale behind using the terms “sex” and “gender” interchangeably remains a subject of debate, and procedures for the legal recognition of gender identity on official state records (where typically only binary sex markers exist) have yet to be established. For North Macedonia, this is already a positive obligation imposed by the European Court of Human Rights in the case of *X v. the former Yugoslav Republic of Macedonia* from 2019,¹ the aftermath of which is still problematic.

Another observation is that children’s rights are somewhat underrepresented or only tangentially addressed, often viewed primarily through the lens of parental or other significant adult interests. For instance,

¹ European Court of Human Rights, Application Number 29683/16, *X v. the former Yugoslav Republic of Macedonia*, Judgment of 17 April 2019.

the existing discussions focus on the child law in the Nordic countries while exploring challenges of becoming and being a parent, and the right to know one's origins framed by the Committee on the Rights of the Child as a balancing of interests between competing parties. Future research could enrich children's rights discussions by exploring children's rights within more diverse private law settings. This might include topics such as children's evolving capacities, personality rights, and self-determination in healthcare. Additionally, further attention could be given to property and inheritance rights, the role of children in contract and tort law, and their protection in the digital environment. Finally, issues such as social security, procedural rights, and the implementation of child-friendly justice remain fertile ground for deeper academic engagement.

Admittedly, the sheer volume of comparative data across numerous national jurisdictions can, at times, overwhelm the reader. This complexity is further heightened by the fact that the comparison frequently shifts focus, addressing entirely different topics on distinct legal issues, from one section to the next, which makes the broader narrative line occasionally difficult to follow. Furthermore, navigating these variations becomes even more challenging from a terminological perspective as key legal terms often carry vastly different meanings or interpretations across jurisdictions (evident in occasionally nuanced concepts such as "legal capacity" or "sex/gender"). Yet, this intricate structure and linguistic friction should not be viewed as a flaw unique to the volume, rather, they represent the inherent burden of comparative legal research itself, where braving a dense, constantly shifting thicket of diverse domestic frameworks and vocabularies is the necessary price for achieving a comprehensive European outlook.

Unlike static textbooks, this work acts as a dynamic dialogue. It suggests that through sustained joint collaboration, these diverse legal systems could eventually meet at important junctures. It serves as a modern successor to the early CEFL publications, updated to address the twenty-first-century realities such as gender identity and assisted reproductive technologies. Consequently, it provides a comprehensive evaluation of contemporary family law challenges from leading European scholars, offering a foundational reference point for the field. Furthermore, it serves to stimulate broader academic engagement and encourage further discourse regarding the intersection of domestic family law reforms and internationally ratified human rights.

4. CONCLUSION

In its final assessment, *What Family Law for Europe?* stands as a comprehensive and highly relevant contribution to modern legal scholarship. The book successfully delivers on the promise made in its introduction: to provide a profound comparative analysis of European family law, while identifying the catalysts for a future consensus. It arrives at a critical juncture as European societies face unprecedented shifts in family structures, the rise of cross-border reproductive technologies, and a growing emphasis on the rights of vulnerable adults and children. By emphasizing the historical successes of Nordic cooperation regarding the complexities of gender identity, the authors provide a multifaceted portrait of a field that is simultaneously unified in its goals yet diverse in its national applications.

The volume fulfills its objectives by transcending mere theoretical abstraction, providing an overview of the CEFL Principles of European Family Law (Revisited) that is deeply responsive to contemporary societal shifts. Furthermore, it offers valuable suggestions for potential future research into pressing societal topics.

While there is a relative absence of certain Eastern European and Western Balkan's perspectives – a gap that suggests the European harmonization is still a work in progress, this does not detract from the book's overall significance. Rather, it underscores the urgent need for the very dialogue that this book so effectively initiates.

Consequently, this work represents a useful resource for both academic and practical application. For legal scholars, it provides a rigorous comparative framework and a significant volume of data that can inform future research into contemporary legal concepts. For practitioners, judicial authorities, and policymakers, it offers clear insights into the evolving dynamics of cross-border family relations and human rights. In its final analysis, the volume extends beyond a summary of current laws, serving to encourage scholars across the continent to engage systematically with the modernization of family law policies.

The dialogue initiated by Boele-Woelki and Jänterä-Jareborg would be significantly enriched by the inclusion of empirical studies regarding the “reception” or “rejection” of European principles within the Western Balkan countries, specifically concerning their regional nuances and particularities. Future research could prioritize investigating the socio-legal friction that occurs when harmonized European standards meet traditional domestic legal cultures, and how these regions can benefit from such standards in a tailor-made way that appreciates their local realities. In this context,

political narratives must not be permitted to guide family law matters, especially where they intersect with human rights. As the European Court of Human Rights stated in the case of *Fedotova and Others v. Russia*, “the Grand Chamber considers that it would be incompatible with the underlying values of the Convention if the exercise of Convention rights by a minority group were made conditional on its being accepted by the majority.”² Consequently, the evolution of family law is best guided by legal scholarship rather than political expediency. This ideal often clashes with reality, as laws are passed by democratically elected parliaments whose mandates depend on public representation rather than expert legal consensus.

In its final analysis, this comparative study represents a significant reference point for legal scholars internationally, while the invitation to publish its review in the regionally esteemed *Annals of the Faculty of Law in Belgrade – Belgrade Law Review* underlines the importance of integrating active research from the Western Balkan region into the broader European discourse.

² European Court of Human Rights, App. No. 40792/10, 30538/14 and 43439/14, *Fedotova and Others v. Russia*, Judgment of 17 January 2023, paras. 218, 216, 217 and 219.