The New Family Law: Children in Law and New Family Models
Webinar
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The competition between legal systems and the harmonization of family law in Europe
Virginia Zambrano. University of Salerno

More than other areas of private law, family law is generally considered to be the expression of social, cultural, ethical and, sometimes, religious models typical of a specific People, of a particular historical and juridical tradition, often associated with a well-defined geographical-territorial basis.
This is relevant when discussing the harmonization and standardization of legal rules with regard to the relationship between single national systems and supranational systems, especially in so far as national systems provide for instruments that differ from each other to achieve interests and protect rights that they consider to be worthwhile, in the light of the reference values, which are relative.
The issue of the regime applicable to the family is, today more than ever, connected to the various combinations of personal and patrimonial relationships between subjects of different nationalities or who, in any case, identify the centre of their interests in a country other than the one of common citizenship.
Looking at such transnational dimension, the aim of this paper is to map an alternative route to the harmonization of European family law, which combines the use of European international private law regulations on family matters, the concepts of private autonomy and Courts rulings, together with doctrine efforts.

Equality between parents and the attribution of surnames to children
Roberta Marino. University of Naples “Federico II”

The question relating to the attribution of the surnames of both parents to their children has for long time been the subject of interest in doctrine and jurisprudence.
Unlike the first name, the surname, is an element that characterises the individual in the social context, because it expresses the identity of the person in terms of lineage (biological or emotional).
The surname, therefore, as a suitable tool not only to identify a given person but also to link a specific identity to him.
In analysing the problems related to the regulation of the surname, it emerges the need for a correct balance between the child’s right to identity and the equality of parents.
The unity of the family, in fact, is realised and completed by the equality of its members. So that the disparity in treatment between parents in terms of the

attribution of a surname to their children is contrary to the principle of equality according to all the EU Constitution.
The attribution of the only father surname to children seems not to be justified on the basis of family unity, since the unity of the family could be equally safeguarded by attributing the maternal surname or the joint surname of both parents.
Especially over the last two decades, many countries in continental Europe have undergone fundamental reforms of the rules relating to the transmission of the surname to children under the pressure of the principles of equality between men and women and non-disparity in treatment based on the type of filiation.
After highlighting how today's family model is opposed to the institutional one because it is characterised by a growing recognition of autonomy and, therefore, of the value attributed to individual rights, and for this reason the legislator's intention to protect the principle of family unity with the automatism of the patronymic is no more in step with the evolution of the concept of family; the analysis will focus on the EU countries law systems then touch upon experiences such as those of Nordic countries and England marked by a generally less conservative approach, and I will finally conclude with a survey of the Italian situation.

Guardianship systems for children without parental care in the European Union

María Dolores Casas Planes. University of Jaén

The aim of this presentation is: "*The guardianship systems for children without parental care in the European Union: relevance of their role in the objective of erradicating child trafficking*", a sensitive issue under political pressure.
It is clear the increase of the reality of the migration of a group of people, especially vulnerable, unaccompanied minors (UMAs) in recent years, and in which the European Union is one of the main destinations. And,it is the appointment of a 'guardian' as soon as possible and, if applicable referring them to apply for international protection, one of the major instruments to protect their best interest.
Furthermore, in the absence of an international and/or European harmonising normative instrument on the matter (the only source of European Law that, to date, regulate this phenomenon is the *Common European Asylum System)*, national legislators themselves are called upon to regulate these issues, each in their respective domestic legal systems, usually by civil law, specifically family law. In this respect, however, it should be noted that we are faced with two core problems: the lack of consensus at European Union level both, on the *the criteria for age determination* and on *the procedure for appointing a guardian, tasks, training, supervision,* and son on. As a consequence of that, these minors are much more likely to be trafficked; being the search for a durable solution the central mission of the guardian's care, but at the same time it is the least well-defined mission.
In such a way that, given the lack of dialogue between the competent authorities of the different Member States and the above-mentioned absence of a binding text in the European Union regulating the protection of the unaccompanied minor, specifically the guardianship, it is urgent the adoption of harmonising legislation

by the European institutions. To this end some models can be taken as a reference, such as the recent Italian law of 2017 to which I refer, especially with regard to ‘volunteer guardian’ or the innovative French law 7th February 2022 *relative à la protection des enfants,* that modifies Law Social Action and Families Code.
Finally, we are facing a challenge to which our society must respond with solidarity and based, principally, on the international human rights commitments that all Member States of the European Union have signed up. And some examples showing we are making progress, although there is still a long way to go, include ‘Europrom Project’, the result of work carried out by French, Spanish, Italian and Swedish experts that highlights inspiring practices and recommendations; and ‘European Guardianship Network’ in cross border work.

“Well done is better than well said”
(Eurochild's children Council)

Children's access to the web between parental control and public protection interventions

Giovanna D’Alfonso. University of Campania (Naples)

My presentation starts from the consideration that, although the access to the new digital means of communication constitute an opportunity for the development of the human personality of minors, the latter are particularly vulnerable in the digital environment, since, although technologically adept at using the media, they are less aware or unaware than adults of the risks, linked to the new technologies, and of the rules, established to protect their rights.
Well, the European legislator has regulated the conditions of network access for minors in the legislation regulating digital consent. More precisely, Article 8(1) GDPR has defined the minimum age for the recognition of digital capability, providing, with reference to the provision of information society services to minors, that the processing of personal data of minors is lawful when they are at least 16 years old.
Nonetheless, it must be emphasized that, although the recognition of a new form of digital capacity for so-called “great minors” gives them greater autonomy, digital consent does not represent an adequate means of protection, both because digital platforms often do not really verify the age of users and because consent to the processing of personal data is not really conscious and often not free, because is 'imposed' on the user as a condition for accessing the service offered.
In the face of the loss of the central role of digital consent, public interventions to protect minors are of fundamental importance. Hence the analysis of the most relevant European legislative initiatives and of some important decisions of the Privacy Guarantor.
Having noted the importance of public interventions to protect minors, the purpose of my presentation is to highlight the centrality of parents' role of protection and control over the activity carried out by minors in the digital environment, proceeding to an analysis of the most relevant court decisions on parental responsibility for digital torts, committed by minors.

The jurisprudential development mentioned leads one to the question concerning the limits of the power of control that parents are authorized to exercise, without risking violating the right to privacy of minors and third parties involved.

Choice of Law for Surrogacy Agreements: In the in-Between of Status and Contract

Sharon Shakargy. Hebrew University of Jerusalem

Surrogacy agreements regulate various matters, including parentage, consent to medical procedures, the performance of a very personal service, and monetary compensation. All these questions, which jointly structure the surrogacy, are bundled up together, separated only by extremely fine lines. Collectively, they comprise the basis upon which local and transnational surrogacies are executed. Legislators world-wide hold different positions on the matter of surrogacy in general and on the regulation of each sub-issue in particular; thus, the enforceability and possible outcomes of the procedure vary, depending on the law governing it. As such, it is crucial for the parties to know which law will apply to the surrogacy they are planning. Application of law is usually made by each country's choice-of- law rules, which at this time are generally non-existent. The presentation will suggests guidelines for drafting rules to regulate these special agreements and adequately balance the different interests involved.

Reconstituted families, a new family model

Abigail Quesada Páez. University of Granada

Reconstituted families, also known as blended or stepfamilies, are family units formed by couples who have experienced previous separations or divorces and have chosen to merge their lives along with their children from prior relationships. In this type of family structure, at least one of the spouses brings children from a previous relationship, and together they form a new family with the children of their current partner. This involves the integration of different family systems and the creation of new dynamics and relationships.
Under these circumstances, we are concerned about the legal framework and recognition of these families, but above all, the protection of the minors growing within them.

New EU initiatives in the field of adult protection

Cristina González Beilfuss. University of Barcelona

(Not available)

A comparative view on the legal status of de facto relationships

Jens Scherpe. University of Aalborg, Nordic Centre for Comparative and International Family Law

This short presentation introduces the ongoing work on a major comparative research project, organised by the speaker together with Prof. Andy Hayward, University of Durham. The project builds on their previous collaboration on 'The Future of Registered Partnerships – Family Recognition beyond marriage?' (Intersentia 2017) and focuses on unformalised conjugal relationships. Work on the project started in 2020, and it canvasses 38 jurisdictions from six continents. Today's presentation will give an overview of the project and focus on two aspects of the project only: qualifying criteria and legal effects/remedies upon separation. In addition to those aspects, the project also covers legal effects during the relationship and upon death of one of the partners as well as parent-child relationships of de facto couples, and the findings will be published in 2023 by Intersentia.