“European family law and the Australian family lawyer:
mayonnaise, frites, fruit beers and the creation of a global family law”

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Synopsis: *to inform about developments in family law across Europe as it affects Australian family law and practice, to inform about the EU programme of reform and timetable, to explain impact on Australian forum cases, to inform about influence on changes in Australian family law and practice, to explain new jurisprudential concepts, to highlight some trends in national laws and better equip Australian family lawyers in cases with a European dimension*

Introduction

For the Australian family lawyer, Brussels is a small city in a small country in a less attractive part of Europe. There are few Australian/Belgian forum disputes and it is rare to enforce an Australian order against Belgian assets. Yet Brussels, even more now than Hague, is changing the map of international family law.

Whilst Hague conventions are deliberately aimed at worldwide effect, Brussels conventions are specifically limited to the European Union. So it may be thought that Australian family lawyers can rest easy in ignoring the petty bureaucrats of Brussels.

In fact, the impact of Brussels conventions are being felt and will increasingly be felt in Australia, both as to the specific provisions in case work and in trends in the law. This paper looks in summary at the developments. It concentrates first on Brussels II with its unified divorce jurisdiction and its first to issue principle of forum resolution. It considers the proposed introduction of applicable law across Europe but with impact on all non EU citizens getting divorced in Europe. It covers other changes including child abduction. It examines areas where Australian lawyers should be alert for clients. It states areas for possible changes in the direction of Australian law.

The experience in England is that some changes can happen very quickly and local practitioners must be alert. Moreover leaving these issues for the few, more esoteric, metropolitan international family lawyers ignores the domestic impact. It also ignores the fact that all practitioners will have international cases to deal with as Australia, like the rest of the world, becomes ever more part of the global family law community.

Une espace judiciare Europene

The now openly declared intent of Brussels is to create a family law common judicial system across all member states. It will (mostly) happen however much some member states and practitioners are uneasy. And it will be in force this decade and implemented over the next ten years. And its influence will be felt in family law work worldwide

Brussels has a strict timetable of family law reform to be completed by the year 2011. This explains the proliferation of reforms and the speed of the required responses. However Brussels can only impose change with the unanimity of the member states. The English government have been very willing to listen to the concerns expressed by the English family law profession to the changes being proposed.

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However the family law section of the government is under big political pressures (external to family law) not to be seen to oppose or opt out too often. This is notwithstanding some EU changes are perhaps the most dramatic family law reforms England has seen since Captain Cook first left England's shores

What cannot be in any doubt are three fundamental facts. First, there will continue to be an increasing number of international families, international children and international family law disputes requiring resolution. Secondly, there will be an increasing amount of legislation from Europe affecting all aspects of family law work for English and other European family lawyers. Thirdly, Australia will be mightily affected, in case law because so many Australians have connections with Europe and in legislative changes as family law is now a global community; trends and changes made in influential communities of 500 million people will inevitably influence all other communities.

Brussels II

Introduction

This arrived with minimal advance warning across the European Union on 1 March 2001, and was amended in March 2005. For most English family lawyers, March 2001 was the first time it was appreciated family law would in future come as much from Brussels as from Westminster or the Royal Courts of Justice in the Strand. It was a real shock!

Brussels II is Council Regulation (EC) No 1347/2000, in force on 1 March 2001, on **jurisdiction** and the **recognition** and **enforcement** of judgments in **matrimonial matters and in matters of parental responsibility for children of both spouses.** It came simultaneously into force across all EU states creating identical divorce jurisdiction across most of Europe. It made dramatic changes to local family law including domestic divorce procedure, forum disputes and stays. It overrides domestic law where there is a conflict. **It is known, shorthand, as BII.**

On 1 March 2005, BII was completely replaced by Council Regulation (EC) No 2201/2003 of 27 November 2003. It can be found at http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32003R2201&model=guichett. It is described as "*concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility*". It is known variously as BII revised or BIIr, BIIA or, often, BII bis; bis meaning approximately encore, although encore more in the way of repeat than rejoice! The provisions regarding divorce jurisdiction and forum disputes were repeated from BII. The new measures were primarily regarding recognition of contact orders and child abduction as well as other children provisions. In this paper BII means BII bis unless referring to the historical developments

From 1 May 2004, the EU for family law purposes is Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. Denmark has opted out of all family law EU conventions. It had a population of 380.8 million which then rose in May 2004 to 455 million with the accession states. On 1 January 2007, it is anticipated Bulgaria and Romania will join with an additional 20 million population; nations with a standard of living about 10% of the UK. The EU family law community will be 475 million.

Australia has a population of 20 million.

Changes to divorce jurisdiction

The first change of BII was to introduce across the EU identical jurisdiction for divorce and family matters. No longer need one enquire of jurisdiction in a EU state. It is set out clearly in BII. For countries such as

England, with greater reliance on domicile, it was a big change to one primarily of residence. Moreover there are 7 grounds, some linking residence with a period of time, some relying on simple residency. Maintained is joint domicile for the UK and Eire and joint nationality for all other EU states. Sole domicile or nationality is no longer is available if another EU state has jurisdiction.

Herein lay an additional aspect. Each state was given the option of an additional ground if no other EU state had jurisdiction. For the UK and Eire this is sole domicile. For all or most of the other EU states it is sole nationality.

For example, if a couple have joint residency in France and one has sole domicile in England, England does not have jurisdiction. But if the couple have joint residency in Australia (as not a EU state!) and one has sole domicile in England, then England does have jurisdiction.

For Australian lawyers, this is, at one level, of only incidental relevance save for allowing to show off by being able to tell clients if a EU state has jurisdiction (and that's really impressive!). Moreover it can be important as there are a number of Australian residents, originally from the UK or elsewhere in Europe, who can use their European courts for a divorce on the basis of retaining their original sole domicile (or nationality) thus setting up forum issues with the Australian courts.

But it becomes crucial for Australian lawyers with their clients if two or more EU states and Australia have connections with the couple and so there could be a three way forum dispute.

It is here that BII has become so hated and has so flown against the whole direction of family law in many conciliatory orientated countries.

Major disadvantages of Brussels II

Whereas many countries had a discretionary forum law, often based on forum non conveniens, appropriateness or similar so courts could at leisure look at and decide on the closest connection, the second change BII introduced was a simple "first past the post" provision. The first party to issue in the EU secured jurisdiction whatever the strength of the connection. The country receiving the family law proceedings second in the EU had to stay its proceedings of its own accord, even if patently having the closer connection.

It is easy to apply (an appeal to civil servants and politicians). By its certainty, it has a form of justice and predictability. But it has had major consequences in practice. As Europe has very different financial outcomes between countries, there is a huge importance in securing jurisdiction in the most favourable country. And it involves simply issuing first. The bureaucrats did not then appreciate the disadvantages. Three disadvantages were immediately obvious to those of us at the sharp, client end, and proved so in practice.

No one will mediate until they have first issued to secure jurisdiction – and then what chance successful mediation if one party knows the other has taken tactical steps to secure their interests in litigation? Many mediators gave little prospect of successful outcomes in mediation after such a start.

But even worse. Who would now suggest counselling if to admit the marriage was in difficulties would prompt the other spouse to issue first in their favoured jurisdiction. And having issued first and tactically, what chance successful counselling? BII encouraged the party who was making the break in the marriage, whom some in society would often consider the more responsible for bringing an end to the marriage without giving a full chance to overcome relationship difficulties.

Finally, getting advice as to which is the best jurisdiction requires good lawyer contacts in other countries and an ability to pay for that advice. In short BII favours the wealthy spouse with easy access to top

(expensive) lawyers with international experience. The less wealthy spouse suffered badly. The spouse dependant on state funding and legal aid simply lost out!

So BII favoured the wealthy, the ones initiating the marriage break up, the ones who were not prepared to consider pre-litigation mediation and counselling. It was difficult to see a more non family friendly piece of legislation, yet local politicians were powerless. Attempts by some of us since March 2001 to alleviate the worse elements have come to nothing.

Relevancy to the Australian lawyer

First, if there is a client with forum issues concerning more than one EU state, they must be told to get very urgent advice. Issuing 5 minutes earlier (or later!) than the other spouse can save or gain many millions.

So a client with Australian, English and German connections must very rapidly decide if England or Germany is the better of those two forums. Between England/Germany and Australia, the discretionary criteria will still apply as the first to issue is not decisive. However if the client decides Australia is more favourable and issues first in Australia, the other party will be free to choose which of the EU states is more favourable, before the forum contest with Australia begins. This can require some very important judgements about prospects of success. If the client is presently based in Australia, the Australian lawyer may find himself the lead lawyer in the international team and must understand the issues and the decisions (and the timetable). In this example, if in the forum dispute between Australia and either England or Germany the Australian court decision is that Australia is not the appropriate forum, it will therefore go to the forum in the EU which the other party has chosen. This may be against the best interests of the Australian lawyer's client. It will then be too late to issue in the other EU state.

This proves again why international family law work is such a speciality. Yet within Australia there are many couples with close links to two EU states (especially in its expanded size). This scenario is not at all unusual.

This risk on the practitioner of getting it wrong, especially in the cold, harsh light of hindsight, is high. In London amongst specialist international practitioners, a new case with a EU state involvement causes all other work to be put on hold as an urgent decision is taken, sometimes involving another colleague or counsel and often foreign lawyers, as to best forum and then to issue quickly. Sometimes this is within an hour or so of the start of the meeting. Australia is lucky so far. This scenario only applies if a new client indicates two EU states are involved. But if this is the case, the need for very urgent action is then vital. Fortunately Australia is again lucky as the time difference allows more time before the European courts open for business. But it also means out of hours communication for the client's sake. BII does not create a more peaceful life for practitioners.

The other implications for Australia are more macro than individual case related.

So whither now discretion on forum disputes? With Europe wedded to first past the post, at least amongst itself, and other countries already using or giving it some weight, how long will it be before Australian civil servants decide that the law is so simple and easy to apply (and cheap on costs) that it is suddenly attractive? Bi-lateral and multi-lateral treaties akin to BII could easily be introduced with NZ, some Pacific nations and then Asia.

Alternatively judges will put increasing weight on first to issue as distinct from other discretionary factors. This will change lawyers' practice with greater tactical steps, premature and unilateral action and a non consensual approach at the outset. This is totally contrary to good practice protocols. Yet lawyers have little choice!

This judicial swing towards weight given to first to issue in discretion cases has occurred in England. From March 2001, it has had an odd situation where there was discretion in non EU forum cases with a strong body of judicial comments condemning the party who breaks first to issue tactically, yet within the EU there was no discretion at all and first to issue won. This dichotomy could not last! A Court of Appeal case of Otobo (2002), featuring the then two most senior family court judges, the then President, Dame Butler–Sloss, and Thorpe LJ, gave a strong hint that first to issue will be more to the fore. It was a Nigeria/England forum dispute. Thorpe LJ said : ***I am of the opinion that in order to confine to some extent the effect of applying two different rules*** [discretion on forum outside EU and first to issue in EU], ***greater weight should be given to the consideration of where proceedings were first issued in the exercise of the statutory discretion.*** This was followed in the High Court in A v T (Ancillary Relief: Cultural factors) (2004).

Will the same sort of comments be made judicially in Australia? Will there be government pressure to move to an "easier and simpler and cheaper" forum dispute resolution system? Will international contacts be made by government about reform before local practitioners are consulted? The perils of the first to issue system are great and practitioners must hold out against the introduction, at least without good safeguards.

The new Brussels II *bis* reforms in respect of children

In respect of children, there was awareness of shortcomings of the provisions in the original BII. After much debate, there is a new BII, known as BII *bis,* introduced from 1 March 2005. It replaces BII but in respect of children alone are there any changes. As before, there is some relevance for Australian lawyers but principally those with cases involving two EU states and those undertaking child abduction work.

In respect of children, jurisdiction is based primarily on residence of the child but can also be linked to that of the parents. Agreement between the couple could create a jurisdictional basis, a relevant issue if there were an Australian Binding Financial Agreement with a jurisdiction clause. There are possibilities of a transfer to another state if it is better placed to hear it and the transfer is in the best interests of the child or if there is an emergency matter which has to be decided in respect of a child. This can be if the state itself orders it or if it is asked to order it by another state. This is a very good development as it is similar to the English and Australian approach.

It now covers children of separated, divorced and non married parents and public law (local authority care) proceedings.

Brussels II bis deals with all cases involving parental responsibility, widely defined as "*all rights and duties relating to the person or the property of a child which are given to a natural or legal person by judgment, by operation of law or by an agreement having legal effect. The term shall include rights of custody and rights of access*."

Another child impact of the new BII is the improved arrangements for the recognition of contact orders which hopefully will not now need the system of "exequatur", an interim stage for an order from abroad before being given full effect. BII bis makes contact orders now enforceable directly in all member states. This will make it much easier for parents seeking contact with children abroad.

One controversial issue is the requirement that for immediate recognition of orders, the child's voice has to be heard, subject always to the child being of an appropriate age and having sufficient maturity. There is no prescribed method for the child to be heard in proceedings as this is a matter for the usual practice in the country hearing the application. In England, the child's views are brought into the court proceedings in the form of a report made by a court-appointed expert who will have met with the child to ascertain his or her views. In other situations, the child may be separately represented. Different

countries deal with this differently. England is out of step with some European practice. Germany feels strongly that the child should literally be seen and heard by the judge direct and is sceptical of those countries such as England (and Australia) where this does not occur. Much discussion is taking place on this, going often to the very different judicial roles in various countries.

Child abduction and relocation under BII bis

The new BII continues the links with the Hague Conventions on Child Abduction. Here is more easing from the first to issue principle, with increased reference to the strict Hague criteria (the child's last place of habitual residence) for the return of the child. Australian family lawyers dealing with child abduction and relocation should follow these changes closely.

The Hague Convention of 1980 is the worldwide standard for cases of international child abduction. It is still growing with more countries including India coming on board, the majority of the Sharia law countries with China and Japan being the more significant exceptions. It includes all of the Brussels II states.

To deter child abduction it provides for the speedy return of children. It is not an order based convention. It is outside the tradition of European legislation so far. It emphasises the priority to the jurisdiction of the state of the abducted child's habitual residence. It requires a return save in defined exceptional circumstances and limits the ability of the jurisdiction of the state from which the child has been taken or retained to embark on its own domestic law based investigation.

But it has limitations. It does not deal with access cases. It does not attempt to co-ordinate the family jurisdictions of the signatory states. It recognises differences of approach to domestic law between the signatory states hence Article 15 enables a request for declarations of the state of the law. It contemplates limited cases in Articles 12 and 13 where the return may be discretionary. The weakness of the Hague Convention having only one simple Draconian choice of a return or return refused. It does not go further. If there is a refusal to return, the Hague Convention does not thereafter apply. There is no formal mechanism for judicial cooperation or to produce binding safeguards to allow returns in difficult cases.

There are, in practice, four interlinked and closely associated international child law issues; namely international child abduction, choice of national jurisdiction in international disputes regarding children, the criteria for international relocation of children and enforcement of cross-border contact.

Historically, lawyers, judges and lawmakers have dealt with all four separately. In England, judge-made law provided a very liberal approach to relocation if plans were reasonable. In similar measure, English judges summarily returned most children to their habitual residence. English judges have sent children back with an expectation of their then successfully being granted relocation as an appropriate balance. There is now an increasing awareness that the much greater restrictions in a number of other countries on relocation has meant this balance did not apply. There is a feeling in England that relocation law has become too liberal in favour of the primary residence parent.

But English experience was not shared abroad. The vigorous approach of England in the very narrow definition of defences to child abduction was specifically disputed. Many countries, some in Europe, take a much less vigorous approach including giving the welfare needs of the child greater weight than the policy considerations of the Hague Convention. Habitual residence has not been naturally accepted. In the US there has been the concept of the home state and in a number of European countries, domicile or nationality exert a strong influence. Finally, on relocation, across Europe there is much greater weight than in England to the child's relationship with both parents and the consequence of a relocation on the remaining parent, so a relocation applicant certainly cannot expect to succeed.

The new Brussels II bis is probably the most significant introduction of co-ordinating European legislation in the field of family law. There were two specific objectives, namely provide for the automatic recognition and enforcement of access orders in cross-border cases and provide a clear and effective means of dealing with child abduction. There is a recognition that Hague is world wide and Brussels II bis governs only Europe. However Brussels II bis takes priority over Hague in Europe and materially adds to its provisions between European states.

Motivating factors for BII bis were a lack of rigour in that children were often not returned in Europe. There was a huge commitment by many in Europe to make Hague work better within Europe. There was a concern that some states did not have adequate domestic provisions for mechanisms for speedy and effective enforcement.

Brussels II bis provides a defined jurisdiction for dealing with applications to the state from which the child has been abducted, based on the 1980 Hague Convention but elaborating upon it. It provides an additional mechanism in the event of refusal of a summary return with reference back to the court of the State of origin and a power to that court to order a mandatory, enforceable return. It provides a framework for the determination of where jurisdiction to make custody decisions lie in respect of an abducted child.

A court cannot refuse to return the child if adequate arrangements are made to secure the protection of the child after return. These may include mirror orders, maintenance paid into an account, flight tickets, available accommodation and non molestation orders. Now a mechanism through international communication between judges and central authorities helps to establish whether adequate protective arrangements can be and/or have been made. Judges can also make progress in cases, when perceived as not going fast enough, by making direct contact with a judge in the other jurisdiction.

A problematical issue is the refusal to order a return if the child objects and has attained an age and degree of maturity to take account of the views, Article 13 Hague, and the need for the child to be heard, Article 11(2) BII bis. But often the child's views, interesting as they may be, may not be an Article 13 objection. They may be important to be heard but not important in law.

Brussels II bis requires a return within six weeks. In England, the average period is a little longer than six weeks but the courts are taking pro active steps to move cases on in order to comply with the strict time limits imposed by the regulation. In some European countries it is closer to a year. In some countries it is much more than a year. What will be the worldwide impact on domestic procedures of this requirement?

If a country refuses a return on the basis of Article 13, the refusing court must account to the Court of the State of origin. They must send a copy of the decision, relevant documents and a transcript of the hearing. It must be translated which could cause lots of delays and difficulties, especially with some Eastern European countries. There is then three months for the parties to make submissions to the State of origin about the question of custody. If there are none, the court of the state to which the child has been abducted acquires jurisdiction. This is an important development. If however there are objections, the court of the State of origin conducts a custody hearing. If the decision of the Court of the State of origin is a return, it retains jurisdiction and issues a certificate in prescribed form. This allows direct enforcement of the return order in the refusing state. As a consequence, exequatur is avoided. Enforcement of the certified decision is by domestic process.

The new Brussels II bis addresses three of the four international child aspects, with international relocation still outstanding. There are potentially conflicting criteria on relocation issues namely the European lack of restriction on the movement of people within the EU, the growing importance of promoting the relationship by a child with both parents, concepts of equality, and rights of both parents and the child for respect for private and family life. Brussels II bis does not deal with the approach

to relocation cases which remains with individual jurisdictions. The free movement of people was an immensely strong principle and a founding principle of the EU. If the primary carer parent has good reason to move across a European border, there ought to be a strong reason to prevent, and this would include movement with her established family including children. Against this is the enormous weight to the right of a child to have a relationship with the other parent, perhaps an equally strong relationship. The EU has not yet addressed the quite wide divergence of approach and practice in relocation cases, both in Europe and globally.

It is also encouraging that Egypt and Pakistan, countries which are not signatories to the Hague convention, realise the importance of international children issues and have entered into protocols with the United Kingdom to return children to the appropriate jurisdiction in order to enable issues concerning the children to be determined. This is undertaken via liaison judges in each country.

Brussels I

Before Brussels II, there was Brussels I, although we did not realise it at the time; the Brussels Convention of 1968 on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters. Although in force since 1987, it had been rarely referred to until BII arrived. It provides for financial issues (specifically maintenance) to be decided in the member state which is first to receive jurisdiction. However, unlike BII, it allows jurisdiction to be based on agreement, so avoiding some of the injustices of BII.

As an example of how it works, in one English leading case, pre BII, an Italian woman and her Dutch husband agreed a child maintenance provision in Italy, registered at the Italian courts. They then came to England. The divorce was there but the family court ruled that financial matters must go back to Italy, where the wife was now living. As the Italian court was seized already with child maintenance, spousal maintenance was a related issue and it was just for all financial issues to be decided there.

BI provides for easier enforcement within the EU of family law maintenance provision. But what is maintenance? In many EU countries, it is clear from the law and outcome. England often smudges the maintenance element and the needs, compensation, sharing, fairness elements. The redistribution of capital and payment of lump sum could be for the purposes of maintenance. For example, in Australia, is it only the s79(1) element and/or alimony which is maintenance? If so, only that part would be enforceable. A series of cases have tried to clear the way through this. But BI is now used quite often to enforce family law financial orders in Europe but only if it is maintenance. Accordingly it is an additional aspect which the Australian lawyer should have on the checklist when considering appropriate forum for a client at the outset of a case.

Applicable law

The biggest challenge presently facing English family law is coming from Brussels in the form of the attempted imposition of "applicable law".

It is not understating the threat to say that it will bring a change for law firms and lawyers greater than the combined changes brought by the original SFLA Code of Conduct, the Children Act, no-fault divorce, the Child Support Agency, neo-abolition of legal aid and White equality of financial provision! It maybe the biggest change to professional practice since, well probably divorce ceasing to be the sole prerogative of the Ecclesiastical Courts!

It could be introduced by 1 March 2008, only 16 months from the conference.

Its introduction will inevitably have an impact on Australia.

Yet in England and Australia, outside those dealing with international matters, the concept is unknown, and very alien.

In summary, the majority of European Union countries habitually apply the law not of their own country ("local law") but of the country with which the couple have the closest connection ("applicable law" or "choice of law").

Accordingly a Polish couple married in Poland having their first family home in Poland and then moving to live in France will probably find that France, French lawyers and French judges apply Polish law to any divorce and family proceedings.

If the new law was introduced and they moved to Bournemouth or Blackpool, the local judges and the local lawyers would have to understand and apply Polish law to the case, not English law nor, arguably, English procedure. The same would apply to the application of every other EU law and, probably, the law of every other country in the world.

Brussels does not intend this to be limited to the European Union laws alone. Accordingly, if an Australian couple moved to England, as many do at some stage in their relationship, the English courts will be expected to apply Australian law. Great for those of us who are dually qualified. But what about the rest?!

Given the substantial movement of peoples and families across land borders within Europe post war and the similarities of the jurisprudential roots and origins of many continental European countries, this concept of applicable law is frequently used in Europe. Family lawyers in these countries consider it absolutely normal and usual. Moreover such lawyers consider that it is only fair, right and expected that a foreign couple should have their own national law applied.

Only a minority of countries in the European Union staunchly apply local law in all cases. But the United Kingdom is one. And having been caught out by BII, we practitioners are actively and very vocally expressing our opposition to our government and to Brussels about applicable law.

The response of most English family lawyers, probably identical to that of most Australian family lawyers, to the mere thought of applying the law of another country is one of horror, amazement and complete bewilderment. It is a concept absolutely alien to English and Australian family law.

Nevertheless, applicable law is the BIG issue in the reform of family law across Europe. The United Kingdom is in a real minority. Amongst many across Europe, there is simply a complete lack of understanding of why we should oppose its introduction.

The SFLA/Resolution International Committee has been opposing the change and has endeavoured at every opportunity and at every gathering of international family lawyers to point out this most radical change to the English family law profession. We emphasise the increased costs, longer delays, uncertainties of outcome, uncertainties of the law and procedure, substantial retraining and education and much, much more.

Anxious not to be negative in opposing the introduction of applicable law, the SFLA/Resolution International Committee proposed instead a hierarchy of jurisdiction in BII. It has many advantages:

- it would overcome the first to issue forum race.

- It would go a long way to making sure the family proceedings were in the country with the closest connection to the couple

- it would give priority of jurisdiction to agreements reached between the couple
- it would take away from the need for the introduction of applicable law
- it would create certainty for couples in knowing which country and which country's laws would apply to them.

We have been lobbying hard on this including attending a public consultation meeting in Brussels in December. Our proposals gathered support from practitioners in many countries. We thought it had some support in Brussels. We were wrong.

Draft regulation July 2006

Having produced a green paper in mid 2005 and after consultation, the European Union then produced a draft law on 17 July 2006. The intention is that it will come into force on 1 March 2008.

The detail of the draft law is beyond this paper but in summary it provides for a choice of law by the parties, sets out the applicable law if the parties cannot agree on the choice of law and then allows very restricted public policy provisions.

If the parties agree on the applicable law, it can be one of the following:

- the law of the last common habitual residence provided one spouse still resides there
- the law of the state of nationality or domicile of one spouse
- the law of the state where spouses have resided for at least five years
- the law of the state where the application is lodged

If they do not agree, the applicable law can be one of the following:

- where the spouses have their last common habitual residence, and if none
- where the spouses had their last common habitual residence and one still resides there, and if none
- where both spouses are nationals or domiciled, and if none
- where the application is lodged - presuming jurisdiction exists.

The application of foreign law may only be refused if such application is manifestly incompatible with the public policy of the forum. Refusal on public policy cannot be because the state only applies local law.

It raises a vast number of problems and even the European Union accepts that for countries such as England which applies local law, there will need to be a lot of training.

It raises the possibility that an English court may one morning, applying foreign law, make a divorce order based on only six months separation and make an order in financial proceedings relying significantly on conduct yet in the afternoon in a case involving a purely English couple and English law, refuse a divorce until the parties had been separated for two years and then refuse to take any account of conduct. Many believe this will create real domestic tensions, frustrations and discontent.

In countries such as the Republic of Ireland, which has very reluctantly allowed divorce in recent years but only on specific terms of a long period of separation and on financial matters being resolved before the divorce goes through, it will now be the case that they have to grant divorces after a short period of separation and with no financial arrangements in place. This will cause real angst and dilemmas at a national level.

One of the chief opposition reasons in England has been the extra time, delays and costs in ascertaining and then applying applicable law. This is not accepted as a serious concern by Brussels. It does accept that there will have to be training but they believe the benefits substantially outweigh the disadvantages.

One of the differences is that much of Europe has a codified law, primarily a community of property of financial distribution. It is not too difficult to distil this law into a form that can be understood by others from abroad. Jurisdictions such as England and Australia with a discretionary basis for financial provision, coincidentally often jurisdictions applying local law, invariably have a much more complex law, with greater reference to case law authority and the appropriate exercise of discretion. Distilling into a brief yet comprehensive and understandable form will not be easy.

England, like Australia, has moved substantially in its family law jurisdiction towards an inquisitorial approach rather than the classic accusatorial approach adopted in civil litigation. Nevertheless, the role played by lawyers and judges is still at heart the accusatorial model where the judge asks the lawyers to provide the information about the facts of the case and the relevant law. In such jurisdictions, it will be for the lawyers to ascertain, and then invariably argue about, the law of the other country which is being applied. However many European countries which presently have applicable law rely on the judge making his or her own inquiries about the law of the other country. In such circumstances, of course it is easier, quicker and simpler. Is it perhaps nationalistic (or xenophobic?!) to inquire whether it is also as reliable and as just!

Although this issue is not yet resolved, the applicable law is invariably just the substantive law. It is often not the procedural law, which includes rights of appeal and perhaps includes opportunities for evidence and disclosure. Yet some European countries do not have this distinction. It is a distinction which could lead to much uncertainty and argument.

In any event, what is the law of the other country and how can it be ascertained? How would English lawyers and English judges be able to apply the law of Poland or the law of Australia? How can it be discovered? Traditionally, in a forum shopping exercise, English lawyers privately contact lawyers in the other jurisdiction and engage in a discussion about the laws as applicable to the specific case. A lawyer in London contacts a lawyer in Perth and together they would work out which is the more appropriate and beneficial jurisdiction for the client. One might produce a paper for the other, to be produced in court, setting out the law as it applied to the case. But this may be appropriate in just a few cases, particularly bigger money cases. What now for mass volume family law litigation?

Enter the Web. The European Union has set up a web site, presently limited to European Union states, setting out in summary the law in each country with many translations. It has to be admired in many ways. No doubt in many cases it will be sufficient. However, for instance, it does not cover capital provision on divorce, for the simple reason that most European union countries do not have such a concept. Moreover English lawyers looking at the site, after an initial admiration for the exercise, only find problems with its generalisation and broad sweep. It simply cannot cover the more difficult and exceptional cases. However it is in the difficult and more exceptional cases which most of us are instructed! Will it really be the case that the family laws of all countries will be distilled to a few pages of a web site? Certainly the European Union anticipate that the introduction of applicable law can satisfactorily occur with reliance by lawyers, judges and clients on this website.

The address is http://ec.europa.eu/civiljustice/

The majority of English family lawyers are continuing to oppose. Given that the majority of European union countries already apply the concept of applicable law, they will generally support the new draft law. The United Kingdom can opt out. However it has opted out of several other European Union regulations recently. There is a political dimension. The United Kingdom does not want to be seen to be frequently opting out of European union laws. There is massive pressure from parts of government unconnected with family law to opt in. There will be a lot of work on this over the next couple of months as the decision to opt in or out has to be taken by the end of November 2006.

If we opt in, England has applicable law from March 2008. That will have a dramatic effect on Australian/ European cases.

What is the impact on Australia and Australian lawyers?

As with Brussels II, no immediate direct impact on purely domestic cases.

However in all cases in which another European Union state is involved, the choice may no longer be between Australia applying Australian law and a European Union state applying its law but between Australia applying Australian law and the European state applying Australian law. (But perhaps not Australian law as many Australian lawyers would understand it!) Alternatively a forum dispute with a EU state applying its own laws and being amazed that Australia does not apply the EU's country's laws as the choice of law of the parties. On a discretionary forum dispute therefore, it becomes much less fundamental if both countries in the forum dispute will be applying the same law, at least on paper. What impact will this have on Australian forum law and forum considerations?

If a European Union state is applying Australian law, the judge and the lawyers, or perhaps just the judge, will need to know what is Australian law. How will it? It is likely that the Australian government will prepare a summary synopsis of its law following the structure of the European Union website contents, above. This may well suffice for many European Union judges and cases. For some European Union states where lawyers make their own investigations, such as England, there are likely to be increased requests for advice on Australian law so that it can be applied in the English courts. This marketing opportunity should not be missed! Remember, you saw it first in this paper!

At a macro level, if the reality is that applicable law as a concept is applied across 500 million population as well as some non EU countries already, how long before it is applied elsewhere across the world? Australia is less exposed, geographically and simply because it is not tied in through European conventions. However parts of Australia is a very international community. Australian family lawyers must be aware of what may be occurring across Europe from March 2008 and which may be introduced in Australia. If a Polish couple living in London can expect England to apply Polish law, why might not a Polish couple living in Sydney expect Australia to apply Polish law as well? Australia may have a confidence that it can hold firm on this issue but certain trends seem to be moving inexorably across Europe and out across the rest of the world.

Finally, if the new law is introduced it will be known as Rome III. At least a nicer city than Brussels!!

Common matrimonial regimes

Also in July 2006, the European Union published a green paper on Common matrimonial regimes across Europe. The consultation is until the end of November.

Predictably it presumes the introduction of applicable law.

Maintenance

One of the biggest problems is that across much of Europe, financial provision issues are limited to maintenance in the form of alimony and child support. Issues of capital are dealt with by the regime of community of property, invariably an equal division of the assets acquired during the marriage or which grew in value during the marriage discounting premarital assets, post separation assets, inheritances and gifts. Indeed, in many European Union countries, this division is dealt with by one lawyer acting for the couple together, moreover a non contentious lawyer rather than a family law litigation lawyer. It is regarded as a simple division of the marital assets. Existing enforcement regimes across Europe, such as Brussels I, are specifically limited to maintenance.

However in a number of countries such as England, as with Australia, a substantial amount of the time on relationship breakdown disputes is taken up with dealing with capital issues, including the home and super/pension. What is a fair outcome? How can the various statutory considerations be applied in the particular case? How do the decisions of the higher courts and the comments of the higher court judges apply to the particular case?

Australia is in fact closer to many European Union countries than England because Australian maintenance provision has different considerations and factors from capital provision and is much more closely linked to need. In England, identical criteria apply to capital and income. Maintenance is sometimes, in higher income cases, based on compensation and sharing rather than pure need.

So one big issue dealt with in the green paper is the relationship between the property consequences of marriage and maintenance.

It is here that another issue arises across Europe. Local law is invariably applied to real property. For example, an English couple resident and domiciled in England with a holiday home elsewhere in Europe must make a local will referable to the country where the property is situated. Their English will does not apply. So some European Union countries have difficulties with applying foreign law to local real property. Somewhat perversely, the English family courts have rarely had problems in applying English law to assets abroad!

Automatic recognition and enforcement of orders

The more radical proposals in the green paper disguise, or at least take away from, one of the most fundamental improvements occurring across Europe at present and which is accelerated by these proposals. Following Brussels II, a divorce order in one country will be automatically recognised across Europe. Other reforms have provided that children and some financial orders will be also automatically recognised. Brussels II bis provides that contact orders in one country can be automatically enforced in another country. A new law introduced in October 2005 means that maintenance orders by consent can be automatically enforced across the EU.

The green paper proposes that financial regime orders made in one European Union country can be automatically enforced in another. A pension sharing order in Germany could be enforced against the pension company in Scotland. No need for a local order. A lump sum order in Latvia could be enforced directly against savings in Portugal. A maintenance order in Italy could be enforced by an attachment of earnings order against a employer in Poland. Arrears of a child support order in Greece could be enforced by a garnishee order against a debt owed in Sweden.

Naturally there are issues of translation and certification of the original order by the judge. Nevertheless, these are tremendous developments. They are fundamental for the vulnerable parties, invariably mothers

and children, to provide quicker, simpler and cheaper remedies of enforcement.

When Australian lawyers are considering enforcement, including forum issues, these aspects must be highly taken into account. Enforcement is a ghastly issue, invariably cumbersome, complicated, expensive and time-consuming. International enforcement is even worse. If the present European Union reforms on enforcement manage to work, they will produce an incredible benefit.

The benefits will be seen and felt globally. It is anticipated that a number of nations and groups of nations will want to join in the reciprocal recognition and enforcement measures. Australia may well be one of these. One issue of course is what other conditions are attached to membership! Perhaps applicable law?!

On reciprocal enforcement of maintenance orders, the challenge is for Brussels to be part of the global work already being undertaken. A public consultation in January in Brussels saw not only European representatives but also from other nations across the world. The Hague has already undertaken a lot of work on this. However the perception is that The Hague goes much more slowly, perhaps because it has very many more nations to carry along with it. Moreover there has historically been a significant divide between America and Europe on crucial aspects of reciprocal enforcement. The debate on this is proceeding fast. Brussels will introduce a new law on reciprocal enforcement of maintenance orders. It would like to do so in a fashion which will be acceptable beyond Europe. The challenge for those of us concerned with family law in countries outside of Europe is to balance our own national preferences with the benefit of the one unified family law system across Europe applying elsewhere.

European Union strategy in respect of the rights of the child

The European Union has taken a proactive step in raising awareness of children’s rights and is encouraging specific action to be taken.

On 4th July 2006, issues concerning children were pushed to the top of the international agenda when the European Commission published its Communication ‘Towards an EU Strategy on the Rights of the Child’. From this proposal, a number of legislative and policy initiatives will flow. It particularly focuses on the UN Convention on the Rights of the Child (UNCROC) promoting rights and safeguards for children. It incorporates both civil and criminal justice, employment, development co-operation, trade negotiation, education and health and will affect all children within the EU, as well as extending to millions of children outside its borders.

It is proposed that a “Commission Coordinator of the Rights of the Child” is appointed who will act as a contact from within the European Commission, to ensure that children’s rights are more visible whilst at the same time ensuring a proper strategic coordination with all services concerned.

The objectives include:

- take stock of existing activities and addresses urgent needs
- identify priorities for future EU action.
- through this Communication, ensure that all internal and external EU policies respect children’s rights in accordance with the principles of EU law, and that they are fully compatible with the principles and provisions of the UNCROC and other international instruments (“mainstreaming”).
- in order to improve the effectiveness of activities promoting children’s rights, the

Communication establishes an efficient coordination and consultation mechanisms;

- set up instruments and tools enhancing capacity and expertise on children's rights.

- to raise awareness on children's rights, the Commission will prepare a communication strategy, helping both children and their parents to improve their knowledge of children's rights, and contributing to the dissemination of relevant experience and good practice among other interested parties.

The proposals to take place in 2006-2007 include:

- The development of a web site fully dedicated to children's matters and rights, with the documents accessible in all languages and with a globally accessible vocabulary, in collaboration with the Council of Europe and others;

- Supporting the creation of a single telephone number in Europe for children help-lines on one hand and for emergency lines on the other hand;

- The allocation of parts of the budgets of existing and future EC programmes for actions in favour of children, to make a better and more efficient use of available money in favour of poverty reduction, prevention of violence, employment, etc. for children;

- The presentation, when justified, of legislative proposals under all relevant existing legal bases.

- The preparation of a Green Paper based on an in-depth analysis of children's rights in the Union, in order to carry out a wide public consultation.

In realistic terms, the EU is taking the UN Convention on the Rights of the Child and using its power across Europe and its influence across the world to make sure that action occurs! UNCROC has been influential in many ways but it has had its limitations and shortcomings. The EU hopes to overcome some of these. It does not expect its actions and proposals to be limited just to the EU nor to EU national children nor to children within the EU borders. This initiative should be excellent news for the rights of all children.

Domestic Violence: The EU Daphne II Programme

The Daphne II programme aims at supporting organisations that develop measures and actions to prevent or to combat all types of violence against children, young people and women and to protect the victims and groups at-risk. The need for concerted worldwide action to defend human rights and to eliminate violence has long been recognised at different levels and in different ways within Europe and worldwide. It runs from 2004 until 2008 with a budget of EUR 50 million.

Several measures have been taken along these lines, such as the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the 1989 Convention on the Rights of the Child, the platform for action of the 1995 Beijing Conference, and the 1996 Stockholm Declaration and Agenda for Action at the first World Congress against the Commercial Sexual Exploitation of Children.

The Daphne II programme is complementary to programmes that exist in the EU Member States, especially in the way it focuses on the exchange of good practices about violence across the European Union.

Daphne represents the starting point of NGOs and voluntary organisations cooperation at EU-level in

the fight against violence towards children, young people and women. It encourages NGOs to set up or reinforce European networks and helps them implement innovative projects, the results of which can be disseminated to other Member States and regions. In many cases, these organisations offer services which the public authorities do not have the power or the ability to provide. Communities will benefit from the expertise and experience of the NGOs if their ideas and programmes are disseminated throughout the European Community and further across the globe and shared with like-minded organisations in other Member States.

The Daphne II programme supports actions to combat all types of violence against children, young people and women in Europe and all aspects of this phenomenon such as violence in the family, violence in schools and other establishments, violence at work, commercial sexual exploitation, genital mutilation, health repercussions, trafficking in human beings, rehabilitation of perpetrators, etc. The activities supported are:

- identification and exchanges of good practice and work experience with a view in particular to implementing preventive measures and assistance to victims;
- mapping surveys, studies and research;
- field work with the involvement of the beneficiaries in all phases of project design, implementation and evaluation;
- creation of sustainable multidisciplinary networks;
- training and design of educational packages;
- development and implementation of treatment programmes and support for victims and people at risk, as well as for perpetrators;
- development and implementation of awareness-raising activities targeted to specific audiences;

From the total budget of EUR 50 Million, the Commission can also use 15% at its own initiative to improve the programme's impact and to play a more proactive rule with a view to the dissemination of good practices. Activities covered are threefold:

- to develop indicators on violence, so that the extent of a number of violence phenomena can be quantified
- to extract and deduce policy issues, wherever possible, from the work achieved by funded projects, with the aim of suggesting common policies on violence at Community level and reinforcing judicial practice
- to disseminate, on a Europe-wide scale, good practices stemming from funded projects.

These activities are supported through call for proposals and/or tenders.

The Daphne programme has to date (up to projects selected under call 2005) funded around 420 projects to combat violence against children, young people and women of which full details can be found on the Daphne website, annually being updated. The Commission carries out exhaustive studies of all Daphne-funded projects every year, by way of desk research, monitoring visits and ex-post evaluation.

Other developments

A paper is expected later in 2006 on mediation and other ADR in family law proceedings.

Substantial changes are expected in the realm of succession and inheritance. Across most of Europe, these areas of law and practice are considered part and parcel of the work of the family lawyer. This is primarily because of the concept of matrimonial regime. In England and Australia, the issues are very different including different specialisations of lawyers, save the overlap of Inheritance Act claims.

There has been a lot of progress on unifying procedures for service of documents across Europe. Common agencies have been set up although a recent European Court decision made it clear that lawyers could either use the international agencies for service or serve themselves locally if they were satisfied they could prove good local service. This is of relevancy on proving first to issue proceedings because the process of issuing includes taking appropriate steps towards service. Another European Union paper is expected soon on more steps for unified service provisions.

A network of lawyers and judges

International family law work depends on having a successful, efficient and reliable network of similar specialists in other jurisdictions. Advice is needed on which is the best country in which proceedings should be issued, recognition and enforcement, disclosure obligations and likely outcomes, tax and immigration, child arrangements and the many other aspects affecting the international family. International family law client work can rarely be undertaken without close reference to practitioners in other jurisdictions. A network of practitioners is an absolutely essential requirement for the work and the best representation of the client.

In the 1980s and into the 1990s, international family law work invariably involved wealthy clients, whether super wealthy or moderately wealthy. There was a relatively small group of practitioners, across the world, dealing with these cases. With few practitioners in each jurisdiction experienced in the work, it was easy to be part of a network. It was invariably based on personal acquaintance and national reputation. It was a very specialised and complex area of law and practice into which, it was said, other lawyers should only enter with great care and caution.

In the 1980s and onwards, as the amount of international family law work started to grow, the IBA Family Law Section played a most important role. It laid the foundation for other international networks. From its foundation in 1986, the International Academy of Matrimonial Lawyers (IAML) became probably the primary network for the leading practitioners dealing with international cases. Its members, Fellows, were peer elected. It tended to be orientated towards "big money" finance work rather than children work. Through its annual conferences, the network was strengthened by personal connections. The network is now available to all practitioners on the web. However the organisation has largely remained practitioners undertaking cases involving relatively substantial assets and mostly with relatively high charging rates.

So it is that international family law work grew from a foundation of wealthy clients and a "big money" practitioner network serving those clients.

But international family law work has now all changed.

There are millions of people in Europe who with some sacrifice have purchased modest holiday homes in other countries in Europe. There are many more millions who through choice, or the requirements of their employer, work in another European country, often at modest levels of income. There are even more millions for whom Cupid's arrow has crossed a European border, are now married to another

European national but whose family situation is financially modest or average.

An identical position applies with Australia and Australians.

These very many millions of international families are not super wealthy or even wealthy, cannot afford expensive lawyers charging rates and are often outside the main metropolitan centres. They are not normally accustomed to instructing lawyers. They are, well, just ordinary average clients who happen to have an international aspect within their family.

So international family law work is no longer just a “big money” lawyers game. It now affects the entire social and wealth spectrum. It impacts on all family lawyers, not just “international specialists” in each country. International family law work is now being undertaken by publicly funded lawyers, by lawyers in towns and cities well outside the larger metropolitan centres, by lawyers with modest charging rates, by lawyers with clients with modest income and capital and, crucially, by lawyers without any reliable direct access to equivalent specialist lawyers in other jurisdictions.

In order to provide good representation for their clients, including deciding quickly on the best forum with the race to court imposed by Brussels II, these lawyers need access to lawyers in other countries. But this will not be the “big money” network. It will be other lawyers used to dealing with modest cases. It will be other lawyers located in towns and small cities where the proceedings might take place. It will be other lawyers who would not have regarded themselves as international practitioners a few years ago. These lawyers will rarely attend international conferences. They are unlikely to join international networks of specialist lawyers.

With many more lawyers, in all countries, now dealing with international matters, we urgently need an international Practitioners Network, for lawyers to be able to access practitioners in other countries on international cases.

SFLA/Resolution, the English family law solicitors organisation, receives masses of enquiries from its 5000 members seeking names of reliable family lawyers abroad. Those of us on its International Committee share our contacts but we have been trying unsuccessfully for many years to bring about a network of family law practitioner organisations abroad.

My vision is that a lawyer in one country may be able to make direct contact with a practitioner organisation in another country which then supplies a list of its specialist members in the particular required locality. Each practitioner organisation would accredit its own members, as happens with many practitioner organisations already. Many practitioner organisations receive inquiries from members of the public seeking a good, specialist lawyer, a member of their organisation, and so they are already geared up to provide this service. My proposal is merely a variation in which the inquiry comes from a lawyer abroad.

A model is the newly developing European Judicial Network. If a local family court judge in England has a case in which contact is needed with a local judge in e.g. Germany, the former makes contact with the English representative of the family law European Judicial Network (LJ Thorpe) who makes contact with his opposite number in the EJN in Germany who in turn makes contact with the local German judge. Direct contact is then quickly and reliably established between the two local judges for the benefit of the particular case. This is already working successfully. Informally, this works incredibly well between England and Australia were many of the senior family Court judges in each country know each other well. They will frequently pick up the phone or send an e-mail in a case involving the two jurisdictions. It is less easy with countries with less frequent contact. It is much less easy for lawyers having much less frequent contact. But the European Judicial Network is a model to follow.

A very successful model is Eurojuris, a network of about 700, quality accredited, medium-sized law

firms across Europe which undertake a wide variety of legal work. They have an active family law section. Through conferences and more frequent exchange of information via e-mail, the family lawyers of the Eurojuris member firms feel part of an active network for referring clients and obtaining specialist advice.

Many countries already have a specialist family law practitioners organisation with members across their countries. Some are much more organised and developed than others. The substantial amount of international work, especially across Europe in the next couple of years, will mean that practitioner organisations will inevitably become more outward looking. The creation of a family law practitioners organisations network will indirectly assist some national organisations.

How can this be taken forward? The following are some suggestions:

- Family law practitioner organisations are urged quickly to establish a contact person or committee for the creation of this network

- The contact person or committee is invited to contact SFLA/Resolution International Committee and via my e-mail address as simply a starting point for communication and dialogue for the creation of this network

- Brussels is strongly invited to host and fund a small conference in the early autumn for the contact representatives of the separate European family practitioner organisations to discuss the operation of the network

- Some countries have more than one practitioner organisation. This confuses foreign lawyers and frustrates clients. Each country needs to resolve which will be the contact point, at least for the initial network creation exercise

- Whilst the network is intended primarily for organisations of lawyers who act directly with clients, organisations of advocates and barristers who are able to receive instructions direct from lawyers in other jurisdictions should be in the network

- A close link should be formed with the European Judicial Network, family law section,including for help in those countries without an identifiable specialist family practitioner organisation

- Details of the network including the contact point in each jurisdiction should be available on the Web from an early stage to encourage usage

The work has started. Some of us from England have met the French family lawyers organisation, quite typically over lunch with delightful French wine, in Paris. Scotland discussed the formation in July. We expect to meet with the German Family Lawyers Association soon. We would be very keen to link in with Australia because of the very close links. It is hoped that this fundamental aspect of practice for practitioners can make good progress quickly.

The time has now come urgently to create a formal, properly funded and efficient network of family law practitioner organisations. International families and their lawyers urgently need it. International family law cannot function properly without it.

Conclusion

The now openly declared intent of Brussels is to create a family law common judicial system (*une espace judiciare Europene*) across all 25 member states. It will happen however much some member states and lawyers are uneasy. And it will happen increasingly over this decade.

I believe a consequence is that local laws of EU states will change with the closer influence of other member states. Australia and England have always had a close family law relationship, with each beneficially borrowing laws, practices and procedures from each other. England will more often now be dealing with other EU state's laws. What then of the closeness? As far as Australia is concerned, how much will it find itself indirectly adopting, or adapting to, laws and practices of EU states? And if Europe is creating a very large family law system, with a huge influential element, what effect will this have on laws across the world? Will it, by the back door, create a unifying effect on international family law?

It is general common accord amongst international family lawyers that Australia has for many years been a lead jurisdiction in new ideas of law and procedure and practice. Much has been copied. The eyes of the world's family law professionals has been on the country. And it still is the case, with some recent innovations.

But the family law global axis is shifting. The size of the European Union (population, wealth and influence, especially as extended) and the evangelistic zeal of the Brussels bureaucrats means that attention is now more focused there. It has implications for case work of Australian lawyers acting for international clients. It may result in changes in law and practice in international cases, even where no EU involvement. It will bring influences in family law to these shores which have not previously featured. But those cultural influences will accord with the original home background of a number of Australians.

So whereas many countries around the world (including within the EU) have real concerns about the changes arriving with the new EU family law super power, Australia may be better placed than most to embrace them and develop them within the existing Australian multi-national culture, safe at a distance yet very much a part of the ever closer and smaller world wide family law community.

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He acknowledges the help on international child issues of Ann Thomas (at@iflg.uk.com) and the talk on child abduction in Luxemburg in October 2005 by Henry Setright QC.

More information on international family law matters can be found on the information pages at his web site at www.davidhodson.com. This includes a link to the primary EU sites and other international web sites. He can be contacted at dh@davidhodson.com. © August 2006