

HUNGARY 2.

Second working session – harmonisation in the European Union regarding to family law

The Italian team pointed out, that the differences between legal regimes regarding family law is a serious obstacle to the free movement of persons within the EU. They also highlighted that there are 3 kind of obstacles of family law's harmonization: primary and secondary sources of EU law as a limit, and differences between national regimes.

We agree with the French opinion on the desirability of further harmonization.

In our opinion, one serious problem is the diversity of the legal instruments to be used. For instance, by solution of the case given to the teams yesterday, we had to use more than 15 legal instruments. Such a regulation increases legal uncertainty as it is hard to declare the applicable rules for a given legal question.

According to us , it would be very dangerous if a European document would try to impose a set of family law principles without carefully respecting the considerable differences between the family laws of the Member States. It is important to accept that family law of a particular Member State or region is not any way better or superior to the other. Harmonization therefore should avoid any controversies and respect each countries' traditions and remain supplementary to the law regulating the free movement of persons.

Harmonization should lay down general principles concerning the jurisdiction and applicable law, in order to clarify the legal positions and possibilities of the parties concerned.

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