

Book Reviews

Ian Curry-Sumner, *All's Well That Ends Registered? The Substantive and Private International Law Aspects of Non-Marital Registered Relationships in Europe. A Comparison of the Laws of Belgium, France, The Netherlands, Switzerland and the United Kingdom*, Intersentia Press, Antwerp / Oxford 2005, ISBN 90-5095-532-0, 600 pages

Since 1989, when Denmark introduced the first law on so-called registered partnerships, there has been a steadily increasing interest in the private international law issues surrounding this new institution. This interest has been fuelled by the fact that in the meantime, over forty countries have followed Denmark's suit. The most recent 'member of the club' is Switzerland, whose Registered Partnership Act entered into force on 1 January 2007 (see http://www.admin.ch/ch/d/sr/c211_231.html for the text of the Act).

There are, however, marked differences between the various legal solutions which have been adopted. Whilst some countries allow only for same-sex partners to register their union (e.g., Switzerland), others make no distinction based on sex (e.g., the Netherlands or France). Some partnership laws are closely modelled on marriage (e.g., Switzerland, England, Sweden), whilst others draw a clear distinction between the two (e.g., France; however, the distinction between PACS and marriage has become less pronounced with the coming into force of the new "*Loi portant réforme des successions et des libéralités*" on 1 January 2007; cf. *Simler/Hilt, Le nouveau visage du PACS: un quasi mariage*, JCP Ed. G. 2006, pp. 1495 *et seq.*). Some countries have even opened up the institution of marriage to same-sex couples (i.e., the Netherlands, Belgium, Spain, Canada and, more recently, South Africa). These differences can have a major impact on partners whose union bears ties to more than one national law. What, for example, are the consequences of moving to Switzerland for partners registered in England? Under the Swiss PIL Act, will their partnership be subject to Swiss or English substantive law? How will their rights and obligations be affected by a change of statute?

Lawyers confronted with such issues face a number of obstacles. Not only do they need to track down the relevant foreign law provisions; they also have to surmount the language barrier. Insofar as the laws of Belgium, France, Switzerland, the Netherlands and the UK are concerned, their task has become considerably easier with the publication of *Ian Curry-Sumner's* PhD.

In his book, *Curry-Sumner* explores whether harmonisation or unification of PIL rules on registered partnerships is desirable and indeed possible. In order to reach a conclusion, the author first describes and compares the substantive and PIL rules on registered partnerships in Belgium, France, Switzerland, the Netherlands and the UK (i.e., England and Wales, Scotland, and Northern Ireland). Although the PIL issues raised by registered partnerships are comparable to those raised by same-sex marriages, the author has excluded the latter from the scope of his research.

Curry-Sumner's thesis is divided into four parts. Following a brief introduction in *Part I*, the substantive rules on registered partnerships as adopted in the selected legal systems are described in *Part II* (Chapters III-VIII). The author concludes that all of the analysed registration schemes fulfil a common function.

The PIL rules adopted in the chosen systems are examined in *Part III* (Chapters IX-XII). In Chapter IX, *Curry-Sumner* sets out and compares the different approaches to the issue of characterisation. Based on this comparison, the author submits that certain criteria must be fulfilled in order for a relationship to fall within the PIL category of 'registered partnership', i.e., the relationship must be based on a State-regulated institution and registered by a competent authority, it must be exclusive and involve only two partners, and, once registered, it must create rights and duties between the partners and have a constitutive effect on their personal status. The author rightly concludes that the French PACS and Belgian "*cohabitation légale*" should also be characterised as registered partnerships (on this controversial issue, see the references in *Widmer*, Teil 4 IPR N 42 *et seq.*, in: Böhler (ed.), *FamKomm Eingetragene Partnerschaft*, Berne 2007).

In his subsequent analysis of the respective PIL rules on establishment (Chapter X), dissolution (Chapter XI) and legal effects (Chapter XII) of registered partnerships, *Curry-Sumner* shows that the chosen systems employ different connecting factors, i.e., the place of registration (*locus registrationis* or *celebrationis*), domicile, nationality or the place of forum. Given the diversity of the substantive national rules, *Curry-Sumner* favours the application of the *lex loci registrationis* or a combination of *lex loci registrationis* and *lex fori*.

In Chapter XIII, the author returns to his initial research question and concludes that a harmonisation or unification of PIL rules on registered partnerships is both desirable and feasible, albeit challenging. The topic is currently on the non-priority agenda of the Hague Conference (see Preliminary Document No. 32a of the Hague Conference on Private International Law, May 2005, pp. 28-29, accessible via <http://www.hcch.net>; IFL 2005, pp. 174-175). The book closes in *Part IV* with various appendices.

Curry-Sumner's book can be recommended to all lawyers wishing to gain quick and in-depth access to the substantive and PIL rules on registered partnerships in Belgium, France, Switzerland, the Netherlands and the UK.

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