



Religious Diversity and
Secular Models in Europe –
Innovative Approaches
to Law and Policy

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RELIGARE Judges' seminar: The judiciary facing religious pluralism in family matters

RELIGARE researchers focusing on the thematic research area 'The Family' organised a seminar for judges in Brussels on 5th- 6th December 2011. The purpose of the event was to generate a dialogue between judges of various countries and the RELIGARE team. The seminar included around 30 participants of whom half were judges drawn from Belgium, France, Germany, the Netherlands, Spain, Turkey and the UK.

During the seminar, researchers explained the findings of their interviews. The judges commented on the difficulties they experience in the application of foreign law due to the fact that in many legal systems the private international law rules require judges to apply the law of the nationality of the parties in matters such as divorce. The enactment of the Rome III Regulation in some Member States of the European Union will reduce the number of divorce cases in which the law of the nationality should be applied and increase the application of the law of the habitual residence. The result is that the law of the host country will be applied more often to the divorces of immigrants.

Judges commented on the difficulty of finding the correct content of foreign law. It was pointed out that the English rules on private international law do not require the application of foreign law in most cases. The use of applying foreign law, as well as the difficulties such application entails, were discussed.

Some participants thought that the exception of public policy (allowing the setting aside of foreign law and the application of the national law of the court instead) could provide the required balance. However, other participants were skeptical of using this exception which has many faces and which does not always lead to clarity, noting that previous studies have pointed out the flaws of the exception of public policy.

The meeting was followed by an evening lecture where Maarit Jänterä-Jareborg, Professor and former Dean of the Faculty of Law of Uppsala University, discussed cases of religious claims in national courts. She highlighted that European courts deal with concepts such as *mahr* quite differently. She also spoke about the difficulties of limping marriages and divorces, which can arise when the court of the couple's residence and that of their nationality apply different laws.

The RELIGARE project is a three-year European research project funded by the European Commission's Seventh Framework Programme which examines religions, belonging, beliefs and secularism. This socio-legal project investigates the diversity of convictions in contemporary Europe with a focus on law and on questions relating to management of pluralism under State Law via four thematic research areas: the Family, the Workplace, the Public Space and State Support. For more information, see: www.religareproject.eu.