



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

# Religare Working Paper

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and Secular Models  
in Europe  
Innovative Approaches  
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## Alternative Dispute Resolution in Europe under the Auspices of Religious Norms

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### Abstract

There has been a remarkable shift towards means and bodies of extra-judicial (alternative) dispute resolution (ADR) in many countries. Yet, at the EU level no broad in-depth research is available on ADR regulations and cases, combining the sociological and legal issues. This paper aims at identifying the particular challenges associated with ADR for EU citizens and immigrants who are affiliated with religion-based legal orders and at formulating a set of questions on that basis for further research.

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## **Table of Contents**

General remarks on alternative dispute resolution .....	1
Reasons for choosing ADR for the application of religion-based norms.....	2
Prospects and problems of applying ADR in the field of family law.....	4
Preliminary conclusions and recommendations .....	9
References .....	11

## General remarks on alternative dispute resolution

In general, there has been a remarkable shift towards means and bodies of extra-judicial (alternative) dispute resolution (ADR) in many countries. The advantages of this kind of dispute resolution method are obvious. The necessary confidence in the persons resolving conflicts and in the quality of their decisions may increase when they are explicitly and unanimously chosen by the parties involved. In addition, ADR may provide a relatively quick and cheap process of dispute resolution. Other specific reasons for applying ADR with respect to religious or other minorities with an immigrant background as discussed below. Muslims adhering to the rules of traditional Muslim family law would possibly feel 'respected' by society as a whole.

The key prerequisites for successful and fair ADR are an agreement of the parties involved to prefer ADR voluntarily and for common reasons, and qualified arbitrators or mediators applying norms that are equally deemed to be in the legitimate interests of each party.

The following considerations are mainly based on the author's personal research. Naturally, there are few publications in the field of ADR, particularly on family matters: confidentiality is one of the core assets of ADR, thus (scientific) access to institutions and cases is difficult to obtain. The decisions and awards are not published. Some concentrated research has been done, notably in the UK, where religious ADR institutions dealing with family matters have either been established for a long time (in the case of the Jewish Beth Din) or more recently but in considerable numbers and under the eyes of a broad secular public (in the case of the Islamic Sharia Councils and Muslim Arbitration Tribunals). Some sociological research on the needs and convictions of immigrant religious minorities has also been published, e.g. by Adre Hoekema. RELIGARE consortium members Prakash Shah and Werner Menski have published extensively on the legal accommodation of minorities in the UK and in India. Since they are part of the consortium and Prakash Shah will conduct/supervise our research in the UK, they will be left to introduce their knowledge and reflections during the work of the project.

Yet, at the EU level no broad in-depth research is available on such ADR regulations and cases, combining the sociological and legal issues. Thus, our project can contribute considerably towards filling this obvious and sociologically relevant gap. Furthermore, it is probable that some publications are available in other member states represented in the RELIGARE consortium. The same is true for practical evidence.

## Reasons for choosing ADR for the application of religion-based norms

Within the scope of private autonomy, the parties concerned are free to create legal relations within the limits of public policy and to agree the ways and results of non-judicial dispute resolution. In matters of family law, relatives will often be consulted first. In the event of failure, informal or existing formal dispute resolution bodies might be involved as well as state courts. Certain decisions, such as officially recognised divorces, are restricted to state courts in the EU. Others might be open to ADR mechanisms.

Some of the general reasons for seeking ADR may especially apply to family disputes, in which confidentiality and the choice of arbitrators according to personal trust can be even more attractive than in other ADR cases. Besides these, the specific reasons are threefold: institutional, religious and cultural.

*Institutional reasons.* In cases of intermarriage and the ‘international’ conduct of life, the persons involved may have an interest in creating legal relations recognised in all the countries involved. Some foreign state laws founded on religion tend to recognise ADR decisions based on conflicts resolved on the grounds of these laws rather than accept foreign ‘secular’ state court or administrative decisions. This is the case not only with respect to some Muslim states, but also to the state of Israel regarding Jews.<sup>1</sup>

In other cases, mere formal reasons such as the lack of documents required for marriage under the law of the land might draw immigrants to enter into informal religious marriages in order to create socially accepted fundamentals for living together. Iraqi refugees in Germany are actually facing this problem with regard to documents proving their capability to marry under Iraqi law (which is applicable according to German private international law (PIL), in this case see Art. 13 of the *Einführungsgesetz zum Bürgerlichen Gesetzbuche*, EGBGB). As far as these marriages are not recognised by state law – as is usually the case – conflicts including ‘divorces’ can only be resolved under ADR mechanisms.

*Religious reasons.* Some voices in the Muslim spectrum reject the authority of secular institutions to decide on legal conflicts among Muslims. One of the few representatives publicly demanding the introduction of Islamic law and Muslim arbitration in Germany is the extremist founder of an Islamic

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<sup>1</sup> For legal problems relating to the Jewish get (divorce), see M. Freeman, “The Jewish Get and the State”, in R. O’Dair and A. Lewis (eds), *Law and Religions: Current legal issues 2001*, Vol. 4, Oxford: Oxford University Press, 2001, pp. 365, 377.

centre in Berlin. In a book on the *Rules of Personal Status of Muslims in the West*,<sup>2</sup> Sālim Ibn continually declares non-Muslims to be infidels and rejects German legal rules and judgments as “rules of infidelity”.<sup>3</sup> Consequently, he urges Muslims in Germany to maintain the rules of traditional Islamic family law. He even argues that the traditional punishment for adultery – flogging or stoning to death – should be applied to Muslim women in Germany (!) who are married to non-Muslims, even if they are unaware of the “applicability” of these rules in their cases.<sup>4</sup> He denounces the German system of social security as being evil, because it grants wives independence from their husband’s maintenance payments and thus enables them to “disobey” their husbands.<sup>5</sup>

Some other religious extremists and traditionalists openly argue that Muslims should not accept the legal norms and judgments of ‘infidels’. They should instead establish their own bodies of dispute resolution and elect their own judges.<sup>6</sup> But would extra-judicial dispute resolution then create a viable solution for weighing up the relevant interests of the parties involved in a manner consistent with the community’s standards as well as with the indispensable principles of the law of the land?

*Cultural reasons.* When it comes to Muslim immigrants, various research projects in Europe in recent years clearly demonstrate that considerable groups of them maintain the structures of family life current in their countries of origin.<sup>7</sup> Some of them are reluctant to use the legal remedies provided by the law of the state they are domiciled in because they believe they are bound to legal orders that differ from the law of the land. Others are simply unaware of the fact that in certain matters, including family law (e.g. with respect to contracting marriages and divorce), the formal legal rules of the state of domicile have to be observed; otherwise, the intentions and acts of the parties involved are not

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<sup>2</sup> See S. Ibn, *‘Abd al-Ghanī al-Rāfi‘ī, ahkām al-ahwāl al-šakhsīya li-l-muslimīn fī al-gharb* [The Rules of Personal Status of Muslims in the West], Riyadh, 2001; see also M. Rohe, “Islamisten und Schari’a”, in *Islamismus*, Senatsverwaltung für Inneres, Berlin, 2005, pp. 98, 109 ss.

<sup>3</sup> *Ibid.*, p. 618.

<sup>4</sup> *Ibid.*, p. 394; see also the results of an essay competition among Muslims in Britain on issues concerning penal law (that by A. Mohammed in The Federation of Students Islamic Societies, *Essays on Islam*, Essay Competition, Winning Entries 1995, Leicester, 1995, pp. 14, 37). The winner quotes a Muslim author saying that Europeans are afraid of the application of Islamic penal norms (ordering harsh corporal punishments that contradict Human Rights) because they have a criminal nature and wish to commit unjustifiable crimes.

<sup>5</sup> See Ibn (2001), *supra*, p. 79.

<sup>6</sup> See I. Baz and Uthaymeen, *Muslim Minorities – Fatwa regarding Muslims Living as Minorities*, Message of Islam, UK, Hounslow, 1998, esp. p. 71; the Fiqh Council of the Muslim World League reported its 16<sup>th</sup> session in Mecca in “A message from Muslim scholars to Muslim Minorities in the West”, Daawah No. 4 1422 A.H./February 2002, pp. 8, 11.

<sup>7</sup> See Z. Badawi, “Muslim justice in a secular state”, in M. King (ed.), *God’s Law versus State Law*, London: Grey Seal, 1995, p. 75; see also M. Simonet, « L’étranger entre deux droits : les facteurs d’adhésion des populations étrangères aux systèmes judiciaire et juridique français », in P. Kahn (ed.), *L’étranger et le droit de la famille*, Paris : La Documentation française, 2001, pp. 118, 139 ss.

legally enforceable. Thus, a marriage contracted solely according to traditional Islamic rules may be socially accepted within the community, but it deprives the spouses of the legally enforceable rights in the state of domicile in relation to maintenance or inheritance that are usually connected to marriage. On the other hand, women in such situations cannot obtain a divorce in state courts because they are not regarded as being married according to the law of the land. Therefore they seek “internal” solutions within their community.<sup>8</sup>

Furthermore, socio-legal orders in many countries of origin of the persons involved tend to perceive family matters as solely private except in extreme cases of violence or other conflicts.<sup>9</sup> This can lead to the avoidance of any state ‘intervention’ by choosing merely informal, socially accepted solutions within segregated groups of immigrants. Again, there is a need for information about the protective function of state law for vulnerable members of the family.

Finally yet importantly, a lack of cultural sensitivity in some state institutions, including courts, may lead to distrust and reluctance. Evidence from Canada<sup>10</sup> supports this view. In this vein, courses or other means of information for state officials should be established to a wider extent. This certainly does not aim at changing the applicable law. Nevertheless, according to the experience of this author as a judge for several years, the feeling of being personally understood is in many cases crucial for sustainable conflict resolution, particularly in matters open for settlement.

### Prospects and problems of applying ADR in the field of family law

Two major areas of advantages and disadvantages of ADR in family matters can be discerned.

First, the official acceptance of such mechanisms, which are predominately free, in choosing the applicable laws might create a feeling of religio-cultural acceptance among those interested in preserving religion-based laws and conflict resolution mechanisms. Yet there is the danger of neglecting internal diversity through institutional homogenisation and even more of increasing the internal pressure on ‘weaker’ members of the community (“the paradox of multicultural vulnerability”

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<sup>8</sup> See S.N. Shah-Kazemi, *Untying the Knot: Muslim Women, Divorce and the Sharia*, The Nuffield Foundation, London, 2001, p. 47.

<sup>9</sup> An extreme case was reported recently from Munich: an imam allegedly had severely hurt one of his three wives; when the police were informed and tried to enter the marital home, the husband initially refused to let them in saying that the treatment of his wife was no business of the administration – see “Polizei stürmt Wohnung von Imam”, *Süddeutsche Zeitung*, 1 December 2010 ([www.sueddeutsche.de/muenchen/muenchen/vermishtes/muenchen-polizei-stuermt-wohnung-von-imam-1.1030562](http://www.sueddeutsche.de/muenchen/muenchen/vermishtes/muenchen-polizei-stuermt-wohnung-von-imam-1.1030562)).

<sup>10</sup> See A. Saris, J.-M. Potvin, N. Bendriss, W. Ayotte and S. Amor, *Étude de cas auprès de Canadiennes musulmanes et d'intervenants civils et religieux en résolution de conflits familiaux*, Montréal, March 2007, p. 44.

according to Ayalet Shachar)<sup>11</sup> to use such mechanisms against their interest and will. This danger is real, since religion-based family laws tend to treat genders and religions unequally according to the patriarchal structures underlying these laws. Therefore, one has to decide whether the interests of religious communities as a whole (which means mainly the interests of their leaders) or the interests of individuals shall prevail in the event of conflicts.

When it comes to the present situation in Europe, an extraordinary example of law and ADR influenced by Islam can be found in England, where an ‘*angrezi shariat*’ (English sharia) is obviously developing.<sup>12</sup> This seems to stem from many Muslims in the UK still having strong family ties to their respective native countries on the Indian subcontinent, which are governed by religiously orientated laws in matters of personal status.<sup>13</sup> In some cases, mainly concerning family relations, they seek socially acceptable solutions for legal problems within the Muslim community with the aid of accepted mediators. The Islamic Sharia Councils in England that have been established since 1980–82 seem to be examples of such mediation.<sup>14</sup> The Councils do not have an official function, but are especially occupied with mediation in the area of the law of personal status. There are frequently cases in which a Muslim wife has obtained an English divorce that she subsequently wants confirmed according to ‘Islamic law’ by the pronouncement of *talaq* (divorce) by the husband, which leads to the general acceptance of the decision in the social environment within or outside the country. Similarly, very often husbands refuse to divorce, and although the wife wishes to do so she may still be reluctant to start divorce proceedings in the civil courts.<sup>15</sup> Even if the matter does not go to the civil court, the Council’s decision may become important; it is not legally enforceable in England, but it seems to be recognised in the state of origin as well as within the religious community.<sup>16</sup> Convincing the husband to pay the *mahr* (a dowry) to his wife constitutes a further possible task for the Council.

The decisions of the Council appear to be based on a relatively reform-oriented approach to the legal sources, but maintain the traditional framework of Islamic law, including the unequal treatment of

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<sup>11</sup> See A. Shachar, “The Puzzle of Interlocking Power Hierarchies”, *Harvard Civil Rights–Civil Liberties Law Review*, Vol. 35, No. 2, 2000, pp. 385, 386, and also A. Shachar, *Multicultural Jurisdictions: Cultural Differences and Women’s Rights*, Cambridge: Cambridge University Press, 2001, p. 62.

<sup>12</sup> See D. Pearl and W. Menski, *Muslim Family Law*, 3<sup>rd</sup> edition, London: Sweet & Maxwell, 1998, ch. 3-81.

<sup>13</sup> See Shah-Kazemi (2001), op. cit.; see also M. Rohe, “Religiös gespaltene Zivilrecht in Deutschland und Europa?”, in H. de Wall and M. Germann (eds), *Festschrift Link*, Tübingen: Mohr Siebeck Verlag, 2003, pp. 409, 415.

<sup>14</sup> See Pearl and Menski (1998), op. cit., ch. 3-81 ss., particularly 3-96; Badawi (1995), op. cit., p. 75; and Shah-Kazemi (2001), op. cit.

<sup>15</sup> See P. Lewis, *Islamic Britain*, London: I.B. Taurus, 1994, p. 119, regarding the circumstances in Bradford.

<sup>16</sup> See Pearl and Menski (1998), op. cit., ch. 3-100.



genders and other religions in general. Hence, the English legal system does not remain untouched by such proceedings: in some Islamic states there is a possibility for wives to obtain a divorce in court on the basis of the *khul*, which is a contractual or statutory right.<sup>17</sup> The wife, however, must then pay back the dowry, which will very often have been intended to serve as an old-age pension. This somehow rewards the husband's persistence in refusing a divorce, which is not acceptable according to the standard of the law of the land. Certainly individual personal status is solely a 'private matter'. Nevertheless, the institutions of law on personal status and especially the balance of rights and duties among the persons involved not only affect society as a whole, but also reflect basic common convictions of this society concerning probably the most important part of social life. Therefore it is incumbent upon the local legislator to establish an order of personal status that fulfils the most prominent task of legal orders by granting peace in society.

Thus, on the one hand ADR can serve as an instrument to achieve socially accepted solutions within a community that is profoundly segregated from society as a whole: it might offer access to solutions to groups that would otherwise refrain from any kind of formal (non-violent) conflict resolution. On the other hand, members of this community who refuse to use the community's special bodies for conflict resolution may easily face reproaches that they are undermining the community's position and being a 'bad' member. This could press individuals into a certain religion-driven system of conflict resolution against their will/interests, as the Canadian example during the debate on introducing sharia boards in the province of Ontario clearly demonstrates.<sup>18</sup> In consequence, accepting such communitarian bodies could lead to continued cultural segregation and to a 'culturalisation' of individuals seeking to apply their individual ways within broader society. Introducing such parallel power structures may endanger socio-legal cohesion: where common legal standards, e.g. regarding equal rights of genders, religions and convictions, are considered fundamental for society as a whole, deviating solutions will certainly cause massive tensions. At the same time, an individual's religious choices are endangered if s/he is unable to avoid the application of religion-based laws containing provisions of unequal treatment.<sup>19</sup>

Second, even in cases where ADR is formally accepted by state laws (e.g. with respect to religious arbitration bodies like the Beth Din and the Muslim Arbitration Tribunals in the UK),<sup>20</sup> the question

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<sup>17</sup> See M. Rohe, "Die Reform des ägyptischen Familienrechts", *StAZ*, 2001, pp. 193; Pearl and Menski (1998), op. cit., ch. 3-100.

<sup>18</sup> See M. Rohe, *Das islamische Recht*, 2<sup>nd</sup> edition, Munich: C.H. Beck Verlag oHG, 2009, pp. 319.

<sup>19</sup> See for example *Re S (Abduction: Intolerable Situation: Beth Din)*, [2000] 1 FLR 454, 460. In this instance, a Jewish lady was refused in her application to bring her case under laws granting equal treatment, since it was her own religion that made Israeli Jewish courts competent to decide.

<sup>20</sup> These should certainly be a main focus of our research, if information on them is accessible.



remains of whether the mere existence of an ADR agreement is sufficient. Of course within the scope of private autonomy, agreements between adults and mentally healthy persons are supposed to be valid and fair unless there is any specific evidence to the contrary. In the context of migration and societal segregation, however, formal freedom to agree or not to agree can be factually restricted to only one option if the relevant party has to expect substantial disadvantages in social life in the event of choosing the ‘wrong’ option. If such factual pressure on the vulnerable party is not merely a theoretical threat, the official recognition of communitarian bodies for ADR and their decisions could prevent the weaker party from making use of the protection granted by the law of the land and enforced by official courts. Formal equality under conditions of material inequality usually leads to the preservation of inequality. As mentioned above, despite various reforms in several Islamic states, the Islamic law of personal status does not grant equal rights for women or non-Muslims.

We should indeed reject the simplifying picture of Muslim women as being suppressed and powerless victims in general. The German Supreme Court<sup>21</sup> has stated that there is no room for the presumption of Turkish wives living in a “typical Muslim marriage” being deprived of autonomous decision-making in daily life. Still, the remaining problems, often having cultural motivations, are obvious and openly discussed among Muslims themselves. As stated by the commissioner for women’s affairs of the Central Council of Muslims in Germany in an interview, “Islam is not in need of a commissioner for women’s affairs. It is not Islam [that] suppresses women, but men. And therefore Muslim women are indeed in need of a commissioner for women’s affairs.”<sup>22</sup> In addition, it has to be noted that sharia and ‘Islamic family law’ are far from constituting a clear and consistent body of rules. Divergent legal schools and opinions in the past and different bodies of legislation in the present Islamic world clearly demonstrate a wide range of substantially varying rules and solutions. For example, according to Tunisian private international law, the application of Moroccan rules of family law (before the reforms of 2003) contradicts the Tunisian public order, notwithstanding the fact that both countries claim to have founded their codes of personal status on sharia rules. In a broader sense, Taj Hashmi, a member of the Muslim Canadian Congress, has expressed his concern that adopting sharia law “may legitimize the excesses of Sharia committed elsewhere in the Muslim World”, and that sharia in its present form is “neither Islamic nor Canadian in character and spirit”. On the other hand, the suggested application

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<sup>21</sup> Refer to BGH (Federal Supreme Court) NJW 1999, 135.

<sup>22</sup> See “Verschleiert, aber selbstbewußt”, *FAZ*, 27 February 2001, p. 14.

of a “watered down version of Muslim personal law”<sup>23</sup> would lead to the question of why not apply the law of the land and individually use its scope and means of private autonomy.

It is remarkable in this context that the Central Council of Muslims in Germany declared in its charter on Muslim life in German society on 20 February 2002 (“Islamic Charta”)<sup>24</sup> that Muslims are content with the harmonious system of secularity and religious freedom provided by the Constitution. According to Art. 13 of the charter, “[t]he command of Islamic law to observe the local legal order includes the acceptance of the German statutes governing marriage and inheritance, and civil as well as criminal procedure”. In the Swiss canton of Zurich, the Union of Islamic Organisations in Zurich<sup>25</sup> has expressly stated in its Basic Declaration that the Union does not intend to create an Islamic state in Switzerland, nor does it place Islamic law above Swiss legislation (sec. 1). The Union also expressly appreciates the Swiss laws on marriage and inheritance (sec. 5). Similarly, the renowned French imam Larbi Kechat has stated that “*nous sommes en harmonie avec le cadre des lois, nous n’imposons pas une loi parallèle*”.<sup>26</sup> According to experiences in Belgium as well, the vast majority of Muslim women living between the rules of Muslim family law and women’s rights claim the protection of Belgian substantial law.<sup>27</sup>

Finally, the advantages and disadvantages concerning the reliability of mediators and arbitrators have to be weighed up against each other: the idea of promoting officially recognised ADR mechanisms for Muslims in Canada was to grant the necessary personal and technical skills, including legal knowledge for the arbitrators, by implementing a system of education and recognition for them. Indeed, one should be aware that refusing the recognition of ‘official’ ADR bodies would not prevent people from using unofficial mechanisms involving persons of unclear background and skills. Two solutions are open here: either to implement a system of official ADR or to improve the state court system with respect to cultural sensitivity and implement programmes of information about the advantages of the existing legal system.

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<sup>23</sup> This expression was used by Syed Mumtaz Ali, the main promoter of the establishment of an Islamic arbitration board in Ontario in an interview on 2 February 2005 – see “Sharia for Canada”, *ABC.net*, 15 September 2005 (<http://www.abc.net.au/rn/talks/8.30/re/rpt/stories/s1334120.htm>).

<sup>24</sup> An English version can be found on the website Islam.de (<http://www.islam.de/?site=sonstiges/events/charta&di=en>), 30 January 2004.

<sup>25</sup> See Vereinigung der Islamischen Organisationen in Zürich (VIOZ), “Grundsatzklärung der VIOZ”, VIOZ, Zurich, 27 March 2005.

<sup>26</sup> See L. Kechat, « le coran a été relevé au VIIe siècle: dans le contexte socioculturel de l’époque, entretien réalisé par Guy Gauthier », *Panoramiques* No. 29 (2e trimestre – 1997), *L’islam est-il soluble dans la République*, pp. 183, 189.

<sup>27</sup> See M.-Cl. Foblets and A. Overbeeke, “Islam in Belgium”, in R. Potz and W. Wieshaider (eds), *Islam and the European Union*, Leuven: Peeters Publishers, 2004, p. 34.

## Preliminary conclusions and recommendations

Obviously ADR can play a significant role in family matters. Informal mechanisms are beyond the influence and control of the state and thus merely ‘private’ as long as they are invoked voluntarily by all parties. Most European legal orders do not admit formalised ADR with legally binding and enforceable awards in core issues of family law. The UK seems to be exceptional in this regard. It would be interesting to compare the legal reasoning for the refusal or acceptance of such instruments. From a German perspective, it is quite clear that under ADR the sensitive matters of legal relations within the family are to be solved in socio-economic and cultural environments where equal powers of bargain and self-representation are not granted in many cases. To the contrary, other than in contractual or other civil law matters, imbalances between spouses or between parents and children tend to be widespread.

What then is the necessary protective legal framework for balanced conflict resolution? Formal ADR institutions are not deemed to deliver the necessary measure of protection compared with state courts. In addition, the applicable law is usually either the substantive law of the land or – according to PIL provisions – foreign law, but controlled in its application by public policy. Thus, the intertwining of decision bodies and applicable rules is considered to grant equal solutions for conflicts of interests. Consequently, the issue of ADR is closely linked to the choice of the most suitable connecting factor in the formulation of PIL norms in family matters; is it citizenship, domicile, residence or other possible factors?

In general, legal pluralism usually does not endanger socio-legal cohesion in mere ‘international’ cases with few links to the state of a temporary stay, whereas ‘internal’ cases involving residents do have such a potential. How then to properly differentiate between ‘international’ and ‘internal’? In this respect, research on the connecting factors in European PIL concerning family law is crucial.

Problems remain in cases where parties are reluctant to bring their cases to state courts for various reasons. If they refrain from doing so without any alternative, the conflicts will persist and might even increase. Therefore, if state court solutions shall be maintained, it is absolutely necessary to react to those reasons for possible rejection that can be altered without touching the content of the law, e.g. by increasing cultural sensitivity among judges and within administrations. It would be interesting to know whether such programmes have already been set up or planned in the member states. As to Germany, the academies for judges (Richterakademien), which serve as institutions for training judges and other legal personnel already in office, offer some short courses (up to now mainly taught by this author). Much more could be done in this field.

As to the institutional reasons, in some cases ADR solutions are only sought because they could lead to decisions that are accepted in the countries of origin, in contrast to decisions by state courts. In this field, it is recommended that initiatives seeking to establish legal grounds for extended mutual recognition of court decisions on an international level are intensified. In cases where documents are lacking, administrations and courts should be ready to find creative solutions or make more use of hardship rules.

In addition, immigrants from countries maintaining a personal law system should be reasonably informed about the legal situation in their new home country. This includes information about the role of state law and institutions in family-related issues: in the West, the state and its legal system have achieved a strong position during the last centuries. Economic solidarity within extended families has been largely replaced by more or less state-run systems of social security. At the same time, the state has taken on the role of main protector of the more vulnerable family members, particularly children and wives in patriarchal cultural environments.

Since the EU has only limited competences in matters touching family law issues, it would be not helpful to focus too much on the question of whether formal legal-religious institutions should be allowed to operate in the member states, given the exceptional nature of this situation and the clear reluctance of member states to unify the law even in supranational cases (intermarriage) in PIL. In this author's opinion, work should mainly concentrate on i) classifying the needs and creeds of parties in need of suitable institutions for conflict resolution; and ii) developing a list of recommendations on the specific fields of application and how concrete measures could be taken to accommodate minorities facing more structural problems in access to state courts than the average citizen.

At the same time, a further recommendation is to develop a scheme presenting EU-wide, commonly agreed principles on family law in an easily accessible and understandable way for informational and educational purposes not only for immigrants, but also for the population in general.

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## Project Identity

Title:	RELIGARE - Religious Diversity and Secular Models in Europe. Innovative Approaches to Law and Policy
Funding Scheme:	Collaborative Project (CP): small or medium-scale focused research project
Coordinator:	K.U. Leuven (Faculties of Law and Canon Law), Prof. Marie-Claire Foblets
Project Managers:	Dr. Jogchum Vrielink Dr. Myriam Witvrouw
Duration:	1 February 2010 – 31 January 2013 (36 months)
Contact e-mail:	<a href="mailto:info@religareproject.eu">info@religareproject.eu</a>
Short Description:	The RELIGARE project is about religions, belonging, beliefs and secularism. It examines the current realities in Europe, including the legal rules protecting or limiting (constraining) the experiences of religious or other belief-based communities. Where the practices of communities or individuals do not conform to State law requirements, or where communities turn to their own legal regimes or tribunals, the reasons behind these developments need to be understood.
Partners:	13 (10 countries)
Consortium:	Centre for European Policy Studies (CEPS), Belgium Université Catholique de Louvain (UCL), Belgium International Center for Minority Studies and Intercultural Relations (IMIR), Bulgaria University of Copenhagen (UCPH), Denmark Centre National de la Recherche Scientifique: Politique, religion, institutions et sociétés: mutations européennes (PRISME), France Universität Erlangen-Nürnberg (UEN), Germany Università Degli Studi di Milano (UNIMI), Italy Vrije Universiteit Amsterdam (VUA), The Netherlands Universiteit van Amsterdam (UvA), The Netherlands Universidad Complutense Madrid (UCM), Spain Middle East Technical University (METU), Turkey Queen Mary, University of London (QMUL), U.K.
Website:	<a href="http://www.religareproject.eu">www.religareproject.eu</a>
EC Funding:	2,699, 943 €
EC Scientific Officer:	Mrs. Louisa Anastopoulou (Project Officer)