# Private International Law and Policies of Migration Law (Paper on SSRN)

Professor Veerle Van Den Eeckhout, who teaches private international law at the Universities of Antwerp and of Leiden, has just published an article entitled "Private International Law Questions that Arise in the Relation between Migration Law (in the Broad Sense of the Word) and Family Law: Subjection of PIL to Policies of Migration Law?" on SSRN. Click here to download.

Abstract:

> In many analyses of international family law attention is exclusively given to "cultural" aspects; the analysis of rules of international family law is often embedded in the debate on the collision of cultures. But in analyses of international family law a so-called socio-economic component can be distinguished, certainly if international family law is studied in interaction with migration law: in regulating mobility, residence, nationality and social security issues – at present sensitive areas -, one is inevitably confronted with the intricacies of PIL – for example, the recognition of a foreign marriage or of a foreign judgment containing a change of age of a foreigner (both typical issues of PIL) could be decisive in evaluating a residence claim or a retirement claim. Awareness of this impact of international family law apparently functions as a catalyst on various levels: in parallel with current "two-track policies" in migration law, a double-track policy is also emerging in the process of dealing with international family law. On the one hand, the European Union has "brought in" international family law as an instrument to stimulate the freedom of movement of European citizens: the awareness that mobility of European citizens within the European Union can be influenced by the way people weigh the pros and cons of its impact on the regulation of their family life, spurs the elaboration of a liberal international family law. On the other hand, when international family law issues involve non-European foreigners, national authorities sometimes tend to use international family law rules in such a way as to prevent non-European migrants from claiming residence, social security and nationality. Thus, if one examines the

“economic” component of international family law, both the so-called European context (mobility of European citizens and their family members within Europe, whereby principles as free movement of persons, non-discrimination of EU citizens and European citizenship are crucial) and the so-called non-European context (migration from non-European countries) should be examined – with attention for the shaky dividing line which seems to exist between the two, as well as the double-track policy which, when comparing dynamics, seems to develop (trends to liberalisation in a European context versus opposite trends in a non-European context). An analysis of the “instrumentalization” of PIL requires a) research into the foundations of PIL b) as well as research into PIL’s “hinge-function”. There is a need to lay down the scientific foundations for future developments in this area through the identification of a series of mechanisms, the critical analysis of the legitimacy and side-effects of current practices and the exploration of future scenarios.