

---

**DIBATTITI**

---

GUIDO ALPA, *Il mercato unico digitale* pag. 1

ABSTRACT. Since 2010 the European Institutions began to create a legal framework of the digital market considering the method of payments, of formation of contracts, of providing digital services or selling digital products. Hundreds of rules became mandatory, each of them waiting for an adaptation to national legal systems which requires the intervention of national legislators and judges. The author tries to offer a frame of this universe of norms combining the rules concerning digital contracts, goods and services and the rules concerning the use of Artificial Intelligence.

MARISARIA MAUGERI, *La Risoluzione del Parlamento europeo del 20 ottobre 2020 sugli Smart Contracts nella prospettiva del diritto dei contratti e della concorrenza* » 25

ABSTRACT. The circulation of wealth now also makes use of new technologies. In particular, it uses Blockchains, Distributed Ledger Technologies (DLT) and Smart Contracts. The European Parliament Resolution of 20 October 2020, with recommendations to the Commission on a Digital Services Act: adapting commercial and civil law rules for commercial entities operating online, deals with these new technologies. In this paper, the author tries to understand if the Recommendations concerning Competition and Contract law, contained in the aforementioned Resolution, are in line with the the spirit of DLT and smart contracts.

LUIGI BALESTRA, *Dinamiche imprenditoriali e substrato familiare: linee di un itinerario* » 41

ABSTRACT. The paper addresses the issues related to the influence that family ties have on family businesses, in the light of the main features of the current socio-economic frame: on the one hand, the disappearance of the traditional family model (replaced by a plurality of models) and, on the other, the still very significant number of businesses whose control

lies within a family group. In fact, family ties constitute a significant factor for implementing cohesion, simplification of the decision-making processes and the growth of the company. Nonetheless, when home life is in discord or generational transition occurs, they could bring about a disruptive crisis within the company itself. Thus, as for possible remedies, the Author suggests that the family business should be open to external professionals and investors, as well as the use of the network contract instrument. Moreover, a wise use of party autonomy is recommended to prevent disputes in the management of the business.

---

## SAGGI

---

NADIA ZORZI GALGANO, *Impatti del Covid-19 sul sistema del codice: impossibilità sopravvenuta o eccessiva onerosità?* » 53

ABSTRACT. *Covid-19 and contract: solutions in the rulings of the Italian Courts and their resilience in light of the Italian Civil Code's system, considering the supervening impossibility of performance and the excessive onerosness of performance.*

THOMAS GENICON, *La forza maggiore: alcuni insegnamenti tratti dalla crisi del Covid-19 nel diritto francese dei contratti* » 87

ABSTRACT. *The health crisis caused by Covid is putting the old "théorie des risques" to the test. In addition, it is very much, for the first time, a "trial by fire" for the brand new texts of the Civil Code relating to force majeure, which are the result of the major French Reform of Contract Law (2016-2018). This crisis, unprecedented in its scope and consequences, is already revealing the flaws and inadequacies of the general legislation that special texts and important court decisions have had to complete and correct urgently.*

HANS-W. MICKLITZ, *Il fascino del diritto privato europeo* » 103

ABSTRACT. *The failure of the DCFR and the Common European Sales Law offers new opportunities to rethink the future of European private law in light of the various challenges, the greening of private law, the rise of the digital society and economy, the global reach of European private law. The paper intends to highlight the potential questions legal scholarship has to tackle.*

RAFFAELLA MESSINETTI, *La privacy e il controllo dell'identità algoritmica*

» 121

ABSTRACT. *This Article aims to answer to the following question: Is the Data Protection Law able to protect data subject from the novel risks of inferential analytics in automated decision-making? As a matter of fact, AI, by means of Big Data analytics, draw non-intuitive inferences and predictions about individuals, which pose the greatest risks in terms of privacy and discrimination. Despite that, GDPR does not address the issue expressly. This Article argues that, in light of a systematic and axiologic interpretation, GDPR grants individuals meaningful control over the algorithmic process that reshapes their identity as digital persons. In particular, a right to reasonable inferences must be derived from the right to privacy, as a tool aimed to protect identity, according to Stefano Rodotà's masterly reconstruction theory.*

FRANCESCO CAPRIGLIONE, *Finanza e politica nell'UE dopo la pandemia*

» 171

ABSTRACT. *The negative implications of the Covid-19 pandemic crisis have resulted in emergency measures launched by the regulatory authorities and central banks to support households and corporations. However the effects of pandemic exacerbated the spirit of cohesion among EU member states which responded with legislative initiatives aiming to enhance long-term policies of social and financial welfare. The programme 'Next Generation EU' contains a set of recovery and resilience facilities (the "PEPP") to boost economy in the Eurozone. This programme complements the ECB's regulatory interventions of Quantitative Easing and TLTRO III that should absorb the losses accumulated during the health crisis. These initiatives have revealed an expansionary role of the ECB in the economic governance of the Union as highlighted in a recent judicial decision pronounced by the German Constitutional Court. The pandemic event has tested the foundations of the EU and pushed towards sustainable investments while, at the same time, raised concerns on the real achievement of a Green Deal.*

FABIO BRAVO, *Intermediazione di dati personali e servizi di data sharing dal GDPR al Data Governance Act*

» 199

ABSTRACT. *This essay analyses the phenomenon of data intermediation, on which The European Commission has recently paid attention with the Communication on "European Strategy for Data" and with the Proposal of a specific EU Regulation on "European Data Governance"*

*(Data Governance Act). In this (proposal of) Regulation there are specific provisions of law about file sharing services provided by data intermediaries and new roles are mentioned: “data holders”, “data users” and “providers of data sharing services” (as data intermediaries between them). The European perspective is clear: to create or to sustain new business opportunities for European enterprises and advantages for Public Institutions, as well. This deep innovation arises new problems and needs to be considered in light of the existing data protection law and to be coordinated with the GDPR.*