
DIBATTITI

GUIDO ALPA, *Note sulla applicazione orizzontale diretta delle disposizioni della Carta europea dei diritti fondamentali* pag. 36

ABSTRACT. The field of fundamental rights is the last to which doctrine and jurisprudence have turned to resolve the crucial question of the direct application of EU Law to private relationships, after examining the application of the provisions of the Treaty and thus the freedoms guaranteed therein, and the provisions of directives. A number of recent cases seem to confirm this approach, which, on the one hand, makes it possible to appreciate fundamental rights by transferring them from paper to real life, and, on the other hand, achieves that coherent and uniform interpretation of the rules that might otherwise be fragmented and incomplete, condemning fundamental rights to live only in the empyrean of declamations and not in the concrete relations of everyday life.

SAGGI

IRINA DOMURATH – HANS-W MICKLITZ, *Diritto Privato Europeo come motore della integrazione* » 377

ABSTRACT. This article argues that European Private Law has become a motor of integration in EU Law. Especially since the famous *Aziz* case of 2013, the Court of Justice of the European Union (CJEU) has used the Unfair Contract Terms Directive to construct a field of law that has not only replaced free movement law as an integrative force, but has also led to far-reaching reforms of national civil and procedural law, especially in Spain and the newer Member States. The principle of procedural autonomy of Member States is here re-interpreted as the procedural

autonomy of national courts. Whether a newfound autonomy of national courts vis-à-vis national legislators has led to true judicial dialogue in the EU is, however, doubtful.

ENRICO DEL PRATO, *Sostenibilità, precauzione, sussidiarietà* » 405

ABSTRACT.

Starting from an introduction on post-modernity, the paper outlines issues related to sustainability, from corporate social responsibility to environmental protection, from codes of conduct to animals' rights, also considering the principles of precaution and subsidiarity and their implications on private autonomy.

TOMMASO MARIA UBERTAZZI, *GDPR, European strategy for data and Artificial Intelligence Act. A functional perspective* » 429

ABSTRACT. This essay analyses the function pursued by various regulations and proposals released as a part of the overall European Strategy for Data and how they coordinate with the General Data Protection Regulation. This analysis shows that European legislation is strongly aimed at encouraging the circulation and sharing of data within the European Union.

FRANCESCA MOLLO, *Private enforcement nel settore antitrust. Riflessioni a margine di un recente provvedimento in tema di danno da cartello nel mercato europeo dell'acciaio* » 467

ABSTRACT. The sentence of the Court of Milan 3194 (15 May 2023), entering into the multi-level dialogue on the subject of anti-competitive offences, stands out for the notable points of interest it presents, and addresses numerous and delicate issues that are intertwined, on a substantial and procedural level, including the relationship between public and private enforcement, issues relating to the passive joint liability of the participants in a cartel and the presumption of harmfulness of the cartel.

FEDERICO RIGANTI, *La gestione “sostenibile” del “risparmio gestito”*. *Divagazioni sull’articolo 47 della Costituzione (e non solo)* » 505

ABSTRACT. This paper aims at analyzing the link between asset management and green transition. To this extent, this research focuses firstly on the renewed Italian constitutional framework. Following such a first topic, the analysis then considers the problem related to the “best interest” rule, and takes into account some new corporate governance structures applicable to management companies, focusing on the topic of remuneration. The work concludes with some final remarks, that intend to show and confirm the need to pay strong attention to the topic under analysis, given its crucial role toward a more sustainable landscape.

GIULIO DONZELLI, *Intelligenza artificiale e responsabilità. Verso un nuovo modello europeo* » 533

ABSTRACT. The paper examines the European Commission’s proposals dealing with liability for damage caused by Artificial Intelligence systems and proposes, in a de iure condendo perspective, some reflections on the strict liability model and the establishment of a mandatory insurance system. The objective is to balance the promotion of Artificial Intelligence with its social acceptance, which is also granted by a liability system capable of ensuring effective compensation for the injured party.

ALESSANDRA MARRAFFA, *Il decreto ingiuntivo non opposto emesso nei confronti del consumatore alla luce della sentenza della Corte di giustizia, grande sezione, del 17 maggio 2022* » 505

ABSTRACT. The Joint Sessions offer a European interpretation of Italian civil procedural law in response to the aforementioned judgments of the European Court of Justice and, with regards to the domestic context, to the judgment of May 17, 2022, in Joined Cases C-693/19, SPV Project 1503, and C-831/19, Banco di Desio e della Brianza, by which, in a similar factual context, the Luxembourg judge, who was asked by the Court of Milan to assess whether “Articles 6(1) and 7(1) of Directive 93/13 are to

be interpreted as precluding national legislation: which provides that, where an order for payment issued by a court upon application by a creditor has not been the subject of an objection brought by the debtor, the court of enforcement may not review whether those terms are unfair - on the ground that the res judicata of that injunction implicitly covers the validity of the terms of the contract underlying it, excluding any examination of their validity". The Court of Justice answered the question in the affirmative, arguing in summary, that although the EU law is not intended to directly harmonize the procedures applicable to the examination of the unfairness of a term present in a consumer contract (without prejudice to the principle of procedural autonomy of the Member States), national procedures must guarantee the effectiveness of the rights to which individuals are entitled under Union law; a circumstance which would be excluded in the absence of an effective check on the unfairness of consumer contract terms. In light of what the European Court of Justice said, it was immediately clear that the ruling principle of the of the res judicata has a strong impact and that there is a crucial need for coordination between domestic procedural rules and European law, as interpreted by the Court.