

Parte I

Dottrina

- SALVATORE PATTI, *Le convivenze “di fatto” tra normativa di tutela e regime opzionale* p. 3

Abstract. The essay highlights the circumstance that the paragraphs dealing with partnerships of Art. 1 of the Law no. 76 of 2016 can be divided in two groups. The first group contains a protective regulation that applies based on the fact of the partnership and, thus, the expression used in the text is “de facto partners”; on the contrary, the second group foresees an optional scheme as an alternative to the matrimonial and the civil partnership regimes, based on a contract, i.e. on an act of private negotiation autonomy of the interested persons.

- ALBERTO MARIA BENEDETTI, *Il controllo sull'autonomia: la forma dei contratti di convivenza nella legge n. 76/2016*» 17

Abstract. In this paper, the author examines section 51 of art 1 of the law n° 76/2010, regarding the formality of contracts on patrimonial aspects of registered partnerships. Notably, this paper focuses on the essential elements that have to be specified in writing in order for the contract to be valid. Moreover, it deals with the role that lawyers and notaries have acquired with regard to the certifying compliance of this type of contracts with mandatory provisions and public order. The gist of the work is that the autonomy of the parties has been subject to a scrutiny that is too incisive (formality and certification of conformity), to such an extent that cohabitants could be discouraged from stipulating this kind of contracts.

- MARIA ALESSANDRA IANNICELLI, *Il cognome del figlio in Italia: brevi note de iure condendo*» 29

Abstract. The present paper considers the choice of the Italian current regulation that identifies children with the surname of the father. The decisive influence of the jurisprudence in order to gradually corrode the intangible rule of assignment of the father's surname to children, has inspired – in the legislatures of the last forty years – many law drafts for the introduction of new rules about children's family name, until the last law draft no. 1628, approved by the Chamber of deputies on the 24th September 2014. The paper analyses the above-mentioned law draft referring to the most relevant and new profiles, making a comparison with some European legislations and draws the attention to the convenience of a reform that excludes rigid automatisms and realizes the best interest of the child.

Parte II

Giurisprudenza

- FILIPPO VARI, *Dissuasione dall'aborto e diritti fondamentali nell'ordinamento tedesco. A proposito di una recente sentenza del Verwaltungsgerichtshof di Monaco di Baviera*» 41

Abstract. The scope of this article is to comment a recent ruling of the Verwaltungsgerichtshof of Munich. The Bavarian judge declared invalid an act adopted by the City of Munich, that prohibited a catholic association to organize sidewalk counseling in front of a clinic in which doctors performed abortions. The decision considers sidewalk counseling granted in the German Grundgesetz, that protects right to life, religious freedom, freedom of speech.

- VALERIO BRIZZOLARI, *Il cognome materno in aggiunta a quello paterno: una realtà anche in Italia (nota a Corte cost. 21 dicembre 2016, n. 286)*» 67

Abstract. The Italian Constitutional Court removes the rule of the patronymic as for the offspring's surname. The Court declared unconstitutional the rule which can be deduced from the combined provisions of several articles of the Italian civil code and laws concerning birth registration, according to which the child must acquire the surname of the father. According to the decision, the patronymic is not consistent with articles 2 and 29 of the Constitution, for two reasons. Firstly, the right to personal identity can be completely fulfilled only when the child is identified since his birth with the surnames of both parents. Secondly, the patronymic rule is

against the principle of equality, because it frustrates the mother's right to pass her surname to the child. For the above reasons, it is now possible to name the child with both surnames.

CHIARA CERSOSIMO, <i>Ordine pubblico e filiazione omogenitoriale (nota a Cass. Civ., sez. I, 30 settembre 2016, n. 19599)</i>»	85
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Abstract. The Italian Supreme Court has recently decided that the registration in the Register Office of the birth certificate that was legally created in Spain, in which it is indicated that the parents of the child are two women, is not in contrast with public order. The Court assumes that the old principle “mater semper certa est” (art. 269, par.3, c.c.) and the provisions of the Italian Law regarding artificial insemination (l. n. 40/2004) do not regard public order. This comment to the above-mentioned decision is focused on the interest of the child in maintaining his identity and in keeping his relationship between his parents, regardless of the parents’ sexual identity or orientation.

FEDERICA GROSSI, <i>Brevi note in tema di prescrizione dell’azione di regresso per il mantenimento del figlio a margine di una sentenza del Tribunale di Roma (nota a Trib. Roma, sez. I, 5 agosto 2016, n. 15811)</i>»	123
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Abstract. The principle that the parents are jointly liable for their children’s support can be considered well established in legal writings and case law; with the resulting right for the parent who provides entirely for the child support to raise a claim to recover the quota that the other failed to pay. More discussed, however, is the dies a quo of the limitation period for the exercise of this right. The Supreme Court considers that the parents’ obligation to support children arises at their birth, but that proceedings against the parent that fails to pay his quota of the support can only be instituted after the final judgment declaring the natural paternity. The limitation period should start therefore only from that moment. Some scholars, and even a judgment of the Court of Rome of 2014, consider, instead, that the right to bring an action is not subject to a final judgment on the natural paternity and that the term of the limitation period begins to run from every single expenditure effected. With this last pronouncement, the Court of Rome departs from its previous decision of 2014, joining the position of the Supreme Court.

Parte III

Recensioni

CLAUDIA IRTI, <i>Donne, violenza e diritto internazionale. La convenzione di Istanbul del consiglio d’Europa del 2011</i> di SARA DE VIDO, Milano – Udine, 2016»	143
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