

Parte I Dottrina

- TOMMASO AULETTA, Natura, acquisti e amministrazione della comunione legale: diritto effettivo e ragioni di auspicabili mutamenti p. 669

Abstract. In this essay the author critically examines the rules and the solutions adopted by the Supreme Court way of interpretation on important issues concerning the nature of the legal regime of the community of property, the composition of the patrimony and the administration thereof, highlighting its inadequacy and contradictions in order to ensure, according to the circumstances, the protection of the opposing interests of each of spouses and the third parties.

- JULIO CARBAJO GONZÁLES, La regolamentazione delle unioni non matrimoniali in Spagna.....» 689

Abstract. The phenomenon of the non-marriage unions in Spain is characterized by the absence of a state law that globally addresses the co-habitants ensemble of rights and obligations; although there are full recognition statements at determined law relations. Simultaneously, there are numerous laws originated from the Autonomous Communities, which have been enacted in order to offer a coverage of the social nature rights for those unions that result constituted according to the requirements established by the respective norms. The lack of the figure's contemplation damages the adoption of solutions on the cases of couple break, as regards the matters of economical nature, in case of a pact absence between the parties, without resulting applicable the marriage's normative.

- MATILDE DE ANGELIS, La nascita quale fattispecie a formazione progressiva» 705

Abstract. The paper analyses the development of the family concept due to the disgregation of the traditional model. For the first time in Italian family law, case law plays a crucial role in the solution of litigations. In this scenario the parenthood is going to detach from the blood bond and the judge should balance, on one hand, the right to respect for private and family life and, on the other, the respect of public order. More specifically, the reported judgements try to solve the problem of the validity of an alien birth certificate that break the law n. 40/2004 and the prohibition of surrogacy motherhood. In this case, the procreative process is breaking up and several people take part in it. The institutional and regulatory framework should face with this new phenomenon offering a solution able to consider the different rights put at stake.

- PAOLA GRIMALDI, *Stalking* e bullismo nell'era dei social network» 719

Abstract. Stalking has become part of our penal system with the decree no. 11/2009 which introduced in the art. 612 bis c.p. the crime of persecutory acts whose notion, over time, has been made ever wider, including mobbing and bullying. Stalking plays a role of undoubted importance also between the measures to combat violence against women and from stalking to femicide the step can be really short if there is no complaint and if nothing is done immediately. The phenomena of stalking and bullying call for particular attention when they are perpetrated through the use of new technologies or related tools, integrating the respective crimes of cyberstalking and cyberbullying.

Parte II Giurisprudenza

- Corte cost., 10 maggio 2019, n. 114 (con nota di FRANCESCO MEGLIO, Sulla capacità di donare del beneficiario di amministrazione di sostegno)» 735

Abstract. Peraltro, [...], il principio personalista impone di leggere l'art. 2 congiuntamente all'art. 3 Cost., primo comma, che garantisce il principio di eguaglianza a prescindere dalle «condizioni personali», tra le quali si colloca indubbiamente la condizione di disabilità di cui i beneficiari di amministrazione di sostegno sono portatori, sia pure in forme e gradi diversi; e secondo comma, il quale affida alla Repubblica il compito

di rimuovere gli ostacoli, qual è appunto la condizione di disabilità, che impediscono la libertà e l'eguaglianza nonché il pieno sviluppo della persona.

Alla luce di tali principi, posti a fondamento dell'intero impianto della Costituzione italiana, deve escludersi che la persona beneficiaria di amministrazione di sostegno possa essere privata della capacità di donare fuori dai casi espressamente stabiliti dal giudice tutelare ai sensi dell'art. 411, quarto comma, primo periodo, cod. civ., restando tale capacità integra in mancanza di diversa espressa indicazione.

Cass. civ., sez. II, ord. 10 dicembre 2018, n. 31902 (con nota di FRANCO TRUBIANI, Affidamento condiviso: il diritto alla bigenitorialità fra assolutezza del principio e relatività delle regole applicative).....» 755

Abstract. The note examines the solution accepted by the Court of Cassation with regard to the implementation of the principle of dual parenting in the shared custody of minor children, as envisaged by art. 337, cod. civ. This interpretation, although tendentially correct, seems to be subject to criticism from the point of view of the lack of reflection regarding the circumstance according to which the attribution of a low percentage of the monthly time or the failure to establish care duties corresponds to the removal of the parent from the daily life of the child minor with irremediable effects, first of all, on the psychological growth of the child. The author, therefore, also in the light of a possible imminent legislative change, reflects on the possibility of preparing tendentially elastic schemes as they must adapt not only to the diversity of concrete cases, but also to the changes determined by the evolution of the reality of reference.

Cass. civ., sez. II, 15 ottobre 2018, n. 25698 (con nota di FRANCESCO PAOLO PATTI, Interpretazione e conservazione degli effetti del testamento)» 779

Abstract. The present contribution provides an examination of the rationales underlying a decision of the Italian Court of Cassation in the field of testamentary interpretation. The author focuses on the problem of identifying the deceased will expressed in a handwritten testament, starting from the ancient institution of the "sostituzione fedecommissaria". The survey reveals that in cases in which the will of the testator is uncertain the interpretation, which renders the disposition effective, is to be preferred to the one which would not.