

The Italian Law Journal



Vol. 04 - No. 01 (2018)



EDIZIONI SCIENTIFICHE ITALIANE

www.theitalianlawjournal.it

THE ITALIAN LAW JOURNAL

An International Forum for the Critique of Italian Law

Vol. 04 – No. 01 (2018)

www.theitalianlawjournal.it

Editors-in-Chief

Camilla Crea (Università degli Studi del Sannio)
Andrea Federico (Università degli Studi di Salerno)
Pasquale Femia (Seconda Università degli Studi di Napoli)
Giovanni Perlingieri (Seconda Università degli Studi di Napoli)

Advisory Board

Guido Alpa (Università degli Studi di Roma La Sapienza)
Lyrisa Barnett Lidsky (University of Missouri)
Maria Celina Bodin de Moraes (Universidade do Estado do Rio de Janeiro)
David Cabrelli (University of Edinburgh)
Guido Calabresi (Yale University)
Mario De Caro (Università degli Studi di Roma 3)
Carlos Fernández Sessarego (Pontificia Universidad Católica del Perú)
Andreas Fischer-Lescano (Universität Bremen)
Martin Gebauer (Universität Tübingen)
Cecilia Gomez-Salvago Sanchez (Universidad de Sevilla)
Xue Jun (Peking University)
Peter Jung (Universität Basel)
Peter Kindler (Ludwig-Maximilians-Universität München)
Michael Lehmann (LM Universität München; MPI, München)
Heinz-Peter Mansel (Universität Köln)
Paul Matthews (King's College London)
Jason Mazzone (University of Illinois Urbana-Champaign)
Peter-Christian Müller-Graff (Ruprecht-Karls-Universität Heidelberg)
Renato Nazzini (King's College London)
Pietro Perlingieri (Università degli Studi del Sannio)
Otto Pfersmann (Ecole des Hautes Etudes en Sciences Sociales, CENJ, Paris)
Ursula Stein (Technische Universität Dresden)
Matthias E. Storme (University of Leuven)
Gunther Teubner (Goethe Universität-Frankfurt am Main)
Amanda Tyler (University of California, Berkeley)
Mauricio Troncoso (Universidad Autónoma de Madrid)
Verica Trstenjak (Universität Wien; MPI Luxembourg)
Louis Vogel (Université Paris 2 Panthéon-Assas)
Simon Whittaker (University of Oxford)
Dai Yokimizo (Nagoya University Graduate School of Law)
Lihong Zhang (East China University of Political Science and Law)

Italian-European Lexicon Editor

Vito Velluzzi (Università degli Studi di Milano)

Constitutional Court Watch Editor

Paolo Passaglia (Università di Pisa)

Corporate and Financial Markets Law Editor

Marco Ventoruzzo (Università commerciale Luigi Bocconi, Milano)

Linguistic Board

Girolamo Tessuto - Chief Editor (Università degli Studi di Napoli Federico II)
Vijay K. Bhatia - Senior Associate Editor (City University of Hong Kong)
Giuliana Elena Garzone - Senior Associate Editor (Università degli Studi di Milano)

Senior Associate Editors

Michael R. Dimino, Sr. (Widener University Commonwealth Law School)
Rafael Porrata Doria (Temple University, Beasley School of Law)

Associate Editors

Emilie K. Aguirre (University of California, Los Angeles)
Claudia Amodio (Università degli Studi di Ferrara)
Marco Bassini (Università commerciale Luigi Bocconi, Milano)
Monica Cappelletti (Dublin City University)
Salvatore Caserta (iCourts, University of Copenhagen)
Alberto De Franceschi (Università degli Studi di Ferrara)
Samuel Fulli-Lemaire (MPI for Comparative and International Private Law, Hamburg)
Monica Iyer (Attorney, Milan)
Francesco Longobucco (Università degli Studi di Roma 3)
Adriano Martufi (Universiteit Leiden)
Robert McKay (Law Editor, Belfast, London and Rome)
Clare Frances Moran (Edinburgh Napier University)
Sarah Pasetto (Italian Constitutional Court)
Francesco Quarta (Università degli Studi di Bologna)
Filippo Valguarnera (University of Gothenburg)
Kristen Zornada (LLM (Harvard), Lawyer)

Table of Contents
The Italian Law Journal
Vol. 04 – No. 01 (2018)

Italian Legal Culture: History and Projects

GIAN MARIA PICCINELLI, <i>Italy in Egypt and Historical Influences on Egyptian Codification</i>	1
---	---

Essays

ZIA AKTHAR, <i>Italian Constitutional Court, Kelsen's Pure Theory and Solving 'Hard' Cases</i>	23
GUIDO ALPA, <i>General Remarks on Civil Liability in the European Context</i>	47
MARCO ANGELONE, <i>Unfair Contract Terms Before the Italian Competition Authority (ICA)</i>	65
GABRIELE CARAPEZZA FIGLIA, <i>The Prohibition of Discrimination as a Limit on Contractual Autonomy</i>	91
FRANCESCO DELFINI, <i>Claims-Made Insurance Policies in Italy: The Domestic Story and Suggestions from UK, Canada and Australia..</i>	117
ROSSELLA FADDA, <i>The Italian Marriage: Crisis or Tradition?</i>	133
PAOLO SANNA, <i>The Recoverability of the Loss of the Right to Life per se: A Brief European Overview</i>	149
IRMA SASSO, <i>Will Formalities in the Digital Age: Some Comparative Remarks</i>	169
CINDY SKACH, <i>Apathy Revisited</i>	195
GIOVANNI ZICCARDI, <i>The GDPR and the LIBE Study on the Use of Hacking Tools by Law Enforcement Agencies</i>	215

Hard Cases

CARLO PETTA, <i>Res Iudicata in Breach of the ECHR: The Italian Constitutional Court's Point of View</i>	225
MADDALENA SEMERARO, <i>The Duty to Inform and Voidable Investment Orders</i>	257
MATTEO WINKLER, <i>'A Case with Peculiarities': Mixed Same-Sex Marriages Before the Supreme Court</i>	273

Constitutional Court Watch

ITALIAN CONSTITUTIONAL COURT'S SELECTED JUDGMENTS OF 2017.....	289
--	-----

The Italian Law Journal is sponsored by 'Harvard Italian Law Association' (HILA), by 'Società Italiana degli Studiosi del diritto civile' (SISDIC) and by 'Società Italiana per la ricerca nel diritto comparato' (SIRD).

