

Parte I Dottrina

- SALVATORE PATTI, La procreazione per conto di altri: problemi e prospettive.....» 795

Abstract. The paper handles the Joint Chamber ruling No. 12193 of 9 May 2019, which addressed the thorny question of the surrogate motherhood, an issue subject to heated debates in several countries. The Supreme Court denied the registration in Italy of an order, issued by a foreign judge, which established the filial relationship between a child born abroad as a result of surrogacy and the intended parent. The non-recognition is based on the assumption that the prohibition of surrogacy laid down in Art. 12 par. 6 of Law No. 40/2004 integrates a principle of public order aimed at the protection of fundamental values, which are objectively at odds with surrogate motherhood. Against this background, however, the need to balance the interests of the subjects involved and, in particular, the interest of the child remains. In addition, developments in other legal system show that such restrictive approach is not easy to uphold, also in light of the recent opinion of the European Court of Human Rights.

- ELSA BIVONA, Diritto vigente e diritto vivente nell'affidamento dei figli.....» 803

Abstract. The study reflects on the judicial use of the clause of the best interest of the child in the field of custody of children, with the aim of verifying whether the task of concretizing the legal rules on the basis of the specific factual circumstances, connatural to the general clauses can be said to be fulfilled; or if the interest of the minor should not be recorded in a corrective use of the rules set, that is, aimed at mitigating the rigidity of the principle of legality, if not even disapplicative of the same in an increasingly decisive gap between current law and living law.

- MARIA ZINNO, Matrimonio e intese sulla procreazione.....» 831

Abstract. Although influenced by traditional models and values, family law shows a constant evolution, reflecting and, at the same time, stimulating social transformations. In this regard, Scholars have pointed out the role of private autonomy, highlighting the increasing value of individual interests and marital agreements. In this framework, the paper focuses on the agreements about family life with particular attention to the sensitive field of procreative choices, trying to assess eligibility, binding nature and relevance, in the light of marital rights and duties and fundamental principles of freedom, dignity and solidarity.

Parte II Giurisprudenza

- GASPARE LISELLA, Donazioni dell'amministratore di sostegno (nota a Trib. Modena, decreto 9-11 luglio 2022).....» 847

Abstract. The note to the judgment, while agreeing with the merits of the decision taken, criticizes the order of the guardianship judge insofar as it considers it admissible that the support administrator may perform an act of donation in the name and on behalf of the beneficiary by manifesting a will previously expressed by the latter.

- DARIO BUZZELLI - GIUSEPPE COLAIACOMO, Le Sezioni Unite sull'incidenza del vincolo derivante dall'assegnazione della casa familiare in sede di scioglimento della comunione (nota a Cass. civ., Sez. Un., 9 giugno 2022, n. 18641).....» 865

Abstract. The judgment of the United Sections commented on here addresses the question whether, when dividing a property jointly owned by two separated spouses, it is necessary or not to take into account the decrease in the

commercial value of the asset resulting from the presence on the same of the bond constituted by its assignment, as a family home, to one of the co-owners, when the division takes place through the attribution to the latter of the ownership of the entire property with an adjustment in favor of the co-owner. The negative solution, which the nomophylactic organ reaches, is to be shared. But the overcoming of the restricted perspective to the consideration of the assignee's right of use and the extension of the investigation to the evaluation of the same assumptions on which the institution of the assignment of the family home is based, would have allowed a more convincing and coherent argumentative path with the ratio of the institution.

GIULIO BIANCARDI, Disposizione testamentaria di esclusione della rappresentazione (nota a Trib. Verona, sez. I, ord. 26 gennaio 2022, n. 3436).....» 889

Parte III

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