

## **DIVORCE IMPOSED AND THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EU**

*Monica Di Monte PhD*

International Law and EU, University "Aldo Moro" of Bari

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### **Abstract**

The Court of Italian Cassation with the ordinance of June 6<sup>th</sup> 2013, n. 14323 put again to the Italian Constitutional Court the decision on the case of a couple of consorts whose transsexual husband had gotten the rectification of attribution of sex.

The controversial joint concerns the fate of the marriage tie following the change of sex of one the consorts.

Besides the annotation on the action of birth of the variation of the registry data there was the annotation related automatic cessation of marriage.

The Court of Italian Cassation admits that a form is created of "imposed divorce". To the light of this it is legitimate the doubt the vompabilities with the normative constitutional and with the contained prescriptions in the CEDU, in which he affirms the right of self-determination in the relative choices personal and sexual ball'identita of every individual.

The Court of Italian constitution, also recognizing importance to the homosexual unions, it exclusively interprets the marriage among heterosexual.

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**Keywords:** Divorce imposed, marriage, transsexual, unconstitutional

### **Introduction**

This article draws on a case that has created, in Italy, a heated debate by introducing a kind of "forced divorce" as a result of the change of sex by one of the spouses. This is due to the absence of legislation which, like other countries of the European Union, rules, unions between individuals of the same gender.

The couple, eager to maintain the married state, have turned to civil Court of Modena because here recognized their right to family life.

The question is then arrived at the Italian Court of Cassation decided that for the referral to the Constitutional Court, through, inter alia, the violation of various provisions of the Italian Constitution.

This ruling is an opportunity to examine the legislation and case law on the subject of European union and family.

### **I.**

The circumstances that give rise to the hypothesis imposed divorce starts from the automatic termination of the marriage bond as a result of the adjustment of sex allocation of one of the spouses-authorized by the Court of Bologna in Art.4 of Act 164 of 1982<sup>86</sup> and Art. 31 of d.l. n. 150/2011<sup>87</sup>. According to these rules, the judicial authority welcoming the request for rectification of gender requires the registrar of the municipality of registration of

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<sup>86</sup> Legge 14.4.1982, no. 164, "Norme in materia di rettificazione e attribuzione di sesso", *G.U.* 19.4.1982, no. 106.

<sup>87</sup> D.lgs. 1.9.2011 no. 150, "Disposizioni complementari al c.p.c. in materia di riduzione e semplificazione dei procedimenti civili di cognizione, ai sensi della legge 18.6.2009, n. 69", *G.U.* 21.9.2011, no. 220.

birth certificate, changing the relevant register; this adjustment results in the dissolution of marriage and the cessation of the civil effects-as dictated by Art. 4 of Law n. 164/1982 and Art. 31 of d.l. n. 150/2011- to note in the margin of the marriage (Presidential Decree no. 396/2000, Art. 69<sup>88</sup>).

The married couple has appealed to the Court of Modena requesting the correction of the act and obtaining a favorable ruling, but despite the acceptance of the request, the Italian Ministry of Interior denied the required correction believing that would lead to maintain “life in a relationship devoid of its essential premise of legitimacy, namely the sexual diversity of spouses”.

The Court of Appeal of Bologna, to which the Italian Ministry of the Interior has proposed complaint, argues the legitimacy of the record made by the Registrar.

The courts of appeal, rule on the matter, have justified the decision by highlighting the complementarity between the update of master-name in the feminine-and updating the registers of civil status; with the mutation registry, according to the Court of Appeal of Bologna, would fail the assumption characterizing the marriage union identifiable in sexual diversity between spouses. Emerges from the judgment the "necessity" of a causal link between gender and the rectification of the record that the registrar completes about the cessation of the civil effects of marriage.

Spouses propose, therefore, appeal to the Italian Supreme Court which, by the order of 6 June 2013, n. 14329, suspends judgment of the same object and decides for the transmission of documents to the Constitutional Court. With sentence no. 170 on 11 June 2014<sup>89</sup>, the Italian Constitutional Court has expressed itself by stating that the divorce "imposed" the married couple, one of whom has obtained the correction of the attribution of sex, is unconstitutional. However, refer to the legislature the task of providing a legal framework, which currently does not exist. The note highlights the positive aspects and critical judgment, placing it within a lively academic debate started in Italy in recent years.

The Supreme Court of Italy repents in the judicial decision of the lower court a kind of "forced divorce" by the legislature for the following reasons: the institution of marriage is based on the consensus that must be used in all matters that concern them; the dissolution of marriage was not, in this case we are discussing, the subject of pronouncement by a judicial authority and therefore not the principles of public policy concerning the institution referred to in Law no. 898/1970; the constraint has arisen previously with respect to the choice of gender reassignment.

Self-determination is the basis of the choices belonging to the emotional and affective sphere of the person concerned, in this case, in addition to the deprivation of a fundamental right which is already-acquired-inevitably affects the spouse who is disturbed state<sup>90</sup>. In this case there is a cancellation of already acquired a status that can not be superimposed on the prohibition of marriage between same-sex spouses. In regard to the latter there is an unjustified equation of already married people who choose to change sex and homosexual persons wishing to contract marriage thus causing an assimilation between gender identity and sexual orientation, already clearly distinguished by the Constitutional Court<sup>91</sup>.

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<sup>88</sup> D.P.R. 3.11.2000, no. 396, “Regolamento per la revisione e la semplificazione dell’ordinamento dello stato civile, a norma dell’art. 2, comma 12, dell’art. 54 della L. 15 maggio 1997, n. 127”, *G.U.* 30.12.2000, no. 303.

<sup>89</sup> Constitutional Court of Italy, 11.06.2014 n. 170, [www.cortecostituzionale.it](http://www.cortecostituzionale.it)

<sup>90</sup> The Law no.164/1982, as pointed out in the judgment of the Constitutional Court no.161 of 1985, has accepted a precise definition of sexual identity by claiming that "for the purposes of such an identification is given more importance not only to the external genitalia, as established at the time of birth(..), but also to elements of psychological and social".

<sup>91</sup> Constitutional Court of Italy, 23 marzo 2010, n. 138, in *G.U.* 21 aprile 2010.

From these considerations reveal the doubts of compatibility between the provisions of Art. 4 of Law n. 164/1982 with the Constitution and with the principles contained in the European Convention on Human Rights and the Charter of Fundamental Rights of the EU.

The Supreme Court of Italy, in the grounds of the order, draws on several occasions human rights allegedly violated by the above mentioned article; the reference, in particular, is addressed in Articles. 6, 8, 12, and 14 of the ECHR and Articles. 7, 9, 20 and 21 of the Charter of Fundamental Rights of the EU.

Valuating the profiles of European Union law, however, it should be noted that in the present case are not applicable provisions of law of the EU, mainly for two reasons: firstly because the spouses Italian citizens no element boundaries; in addition, the EU, under the circumstances, has no specific expertise on the approval of binding acts in the field of family law. This "gap" has been filled by the various national legislatures that govern the relations of family traits with transnational through the rules of substantive law, the rules of private international law and procedural law.

The ECHR, that in the hierarchy of sources, ranks among the constitutional provisions and the common law rule which cd "intermediaries"<sup>92</sup> - as part of the catalog of rights includes two provisions expressly dedicated to the protection of the family is of Art. 8 and 12.

The European Charter of Fundamental Rights<sup>93</sup> - which is of the same legal value as the Treaties Art. 6 TEU<sup>94</sup> - recognizes the importance of family, social primary education, pledging to protect the right of establishment and preservation of family relationships. It should also be pointed out that, from an analysis of the holders of the rights recognized in the Charter, the family is not considered as such-as is the case for other social formations-but it is taken into account "in mediated pathway" as a collective projection rights that are still conceived as individual<sup>95</sup>.

Despite starting from the assumption that it is appropriate to point out that, in the catalog of the rights recognized by the Charter of Fundamental Rights of the EU, there are several provisions related-albeit indirectly-the protection of the family<sup>96</sup>. With reference to provisions of the Charter devoted to the family, there was the "fragmentation" of the design circuit, from which it emerges in full "the family as a community," losing that "connoted aggregating" that should be "the intimate bond between dispositions here instead are scattered between equality, freedom, solidarity"<sup>97</sup>.

<sup>92</sup>As established by the rulings of the Constitutional Court no. 348 of 24 October 2007 and n. 349 of 24 October 2007. Such pronouncements, called "judgments twins," governing the relationship between the ECHR and the Italian legal system by comparing the way to pose the relations between the EU regulations and the internal order, L. GAROFALO, *Obblighi internazionali e funzione legislativa*, Torino, 2009.

<sup>93</sup>Proclaimed for the first time, December 7th, 2000 by the European Parliament, Commission and Council in Nice; proclaimed for the second time in December 12, 2007 in Strasbourg. The Charter has not been included in the Treaty of Nice which was signed on 26 February 2001 entered into force on 1 February 2001, in *GUCE* C 80 of 10 March 2001.

<sup>94</sup>N. PARISI *Funzione e ruolo della Carta dei diritti fondamentali dell'Unione europea nel sistema delle fonti alla luce del Trattato di Lisbona*, in *Il diritto dell'Unione europea*, fasc. 3, 2009, p. 653; F. CAGGIA, *Famiglia e diritti fondamentali nel sistema dell'Unione europea*, Roma, 2005.

<sup>95</sup>Cfr. R. BIFULCO, M. CARTABIA, A. CELOTTO, *L'Europa dei diritti. Commento alla Carta dei diritti fondamentali dell'Unione europea*, Bologna, 2011, p. 15.

<sup>96</sup>In particular, observe that Article. 7, dedicated to respect for private and family life; Article. 9, which guarantees the right to marry and to found a family; Article. 14, which establishes the right of parents to choose the education and training of their children in conformity with their religious, philosophical and pedagogical skills; Article. 23, which affirms the right of equality between men and women; Article. 24 concerning the rights of the child; Article. 25, concerning the rights of the elderly; Article. 26 on the rights of people with disabilities; Article. 33, which establishes the general protection of the family shall enjoy legal, economic and social.

<sup>97</sup>F.D. BUSNELLI, *Importanza e limiti dei valori fondamentali della Carta europea*, in G. VETTORI (edited by), *Carta europea e diritti dei privati*, Padova, 2002, p. 133.

To have a clear regulatory framework for self-determination and the protection of family privacy, guaranteed by the European legislator, it is appropriate that a combined reading of Art. 8 and 12 of the ECHR by Art. 9 of the Charter of Fundamental Rights of the EU. At the time the text of the Convention was drafted, the expression "family life" in Art. 8 ECHR, it was probably related to the life within the family based on marriage between heterosexuals. The association, within that article, the privacy of family life, on the other hand, hinted on the basis of only textual data that art. 8 was designed specifically to protect the individual's right to respect for his family life.

Art. 8 notes at the end of the configuration of a right to family reunification as well as the protection of respect for family life, private life and correspondence<sup>98</sup>; Art. 2 addresses the protection of the right to marry and found a family, and as Art. 7 of the Charter of Fundamental Rights of the European Union, the right to respect for his family life is structured as a right of the individual<sup>99</sup>.

Taken as a whole, the provision in question is confined to enshrine respect for the right of the "family life", as well as the "private life", without committing itself to provide a definition of both expressions. In particular, wishing to proceed to the identification of the definition of family life, in order to assess how the union will fall even when one spouse chooses to change sex, can not pay due heed to the fact that the text of the agreement dedicate, with Art. 12, a specific provision of the right to marry and found a family.

To contextualize the dictates Art. 8 and Art. 12 of the ECHR is required reading combined with the art. 9 of the Charter of Fundamental Rights that affirmed the right of the individual to marriage and the establishment of a family, it offers protection to forms of union other than heterosexual. This systems from the postponement of some principles to the legislation of each Member in accordance with the awareness of the diversity of cultures that determine the structure of protection, in particular, of an ethical nature<sup>100</sup>.

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M. DE SALVIA, *Compendium della CEDU. Le linee guida della giurisprudenza relativa alla Convenzione europea dei diritti dell'uomo*, Napoli, 2000, p. 203 ss.; V. ZENO ZENIVICH, *Art. 8, Diritto al rispetto della vita privata e familiare*, in S. BARTOLE, B. CONFORTI, G. RAIMONDI, *Commentario alla Convenzione europea per la tutela dei diritti dell'uomo e delle libertà fondamentali*, Padova, 2001, p. 307 ss.; C. RUSSO, *art 8 § 1*, in L.E. PETTITI, E. DECAUX, P.H. IMBERT, *La Convention Européenne des droits de l'homme, Commentaire article par article*, Parigi, 1995, p. 305 ss.; F. G. JACOBS, R.C.A. WHITE, *The European Convention on Human Rights*, Oxford, 2006, IV ed., p. 241 ss.; P. VAN DIJK, J.H. GODEFRIDUS HOOF, G.J.H. VAN HOOF, *Theory and practice of the European Convention on Human Rights*, The Hague, 1998; C. PRAVANI, *art. 8 Diritto al rispetto della vita privata e familiare*, in C. DEFILIPPI, D. BOSI, R. HARVEY (edited by), *La Convenzione Europea dei diritti dell'uomo e delle libertà fondamentali*, Napoli, 2006, p. 291 ss.; V. BERGER *Jurisprudence de la Cour Européenne des droits de l'homme*, XI ed., Parigi, 2009.

<sup>99</sup> Cfr. V. ZAGREBELSKY, *Famiglia e vita familiare nella Convenzione europea dei diritti umani*, in M.C. ANDRINI (edited by), *Un nuovo diritto di famiglia europeo*, Padova, 2007, p. 115 ss. The author points out the prospect that art. 8 is different from that expressed by art. 29 of the Italian Constitution, where the reference point of the rights recognized (though not expressed) is directly the family as a social formation and that, if anything, is the structure of art. 2 of the Constitution which is close to that art. 8 of the Convention. Does not, in fact, the text of an article similar to conventional art. 16, par. 3 of the Universal Declaration of Human Rights, according to which: "the family is the natural and fundamental unit of society and is entitled to protection by society and the State". G. OBERTO, *La tutela dei diritti fondamentali nelle Corti costituzionali, ovvero del difficile dialogo tra Carte e Corti*, in *Il diritto di famiglia e delle persone*, 2013, fasc. 1, p. 221.

<sup>100</sup> The consistency of the principle of national reserve was confirmed by the Constitutional Court in the *no judgment* 138/2010 about same-sex marriage, which states: << purposes of this decision it should be noted that Article 9 of the Charter, affirming the right to marry refers to the national laws governing the exercise >>. Same orientation follows the ECtHR, *Schalk and Kopf v. Austria*, June 24, 2010, application no. 30141/04, the case comes from the use of two Austrian citizens, whose marriage proposal was not accepted by the national authorities (pursuant to art. 44 of the Austrian Civil Code) and rejected by the Austrian Constitutional Court. The Strasbourg Court, in this case, denies that art. 12 of the Convention on the right to marry, could be extended to homosexual couples but recognizes an entitlement to the right to family life, protected in any case art. 8 of the Convention.

The interpretation of Art. 12 ECHR in "conjunction" with the Art. 9 of the Charter of Fundamental Rights of the EU, made by the Court of Human Rights, led to the conclusion that the legislature of the Charter has deliberately avoided reference to the men and women<sup>101</sup>. This presumption is confirmed by commentary on the paper which is made explicit in the broader Art. In relation to Articles 9, 12 of the Convention (even allowing for a margin of discretion to the member which is responsible for the regular forms of union).

In short, the right to marriage, in the light of the above, read together, including same-sex marriage.

The Court of Human Rights, on the occasion of the individual cases brought to its attention, took care to highlight the wide borders and to define the scope<sup>102</sup> of the notions of "private life" and "family life"<sup>103</sup> recognizing protection to a number of rights that, in hindsight, are not immediate correspondence in the wording of the provision, and that appear to be the result of a progressive path punctuated evolutionary interpretation of the treaty text.

The European Court of Human Rights has assigned to the concept of an independent value family life with a much broader scope of the relationship based solely on marriage. The existence of a marriage determines almost automatically, the affirmation of the existence of a "family life".

The jurisprudence of the Court has been particularly focused on the notion of "interference" and the provision of Art. 8 ECHR has given rise to an abundant case law that, by applying a plurality of their exegetical methods of the Convention, has a limited set of "european standards" for the protection of the family<sup>104</sup>. The analysis of the case law on Art. 8 of the ECHR, it is clear, first that, by using the theory of "positive obligations", the Strasbourg Court has added an outright prohibition of "interference" in the respect of private and family life enshrined in the wording of the provision required for States to adopt measures concerning the promotion and the protection of that sphere from attacks by private entities<sup>105</sup>.

The Strasbourg Court has ruled on several occasions<sup>106</sup> about the rights of transsexuals condemning those Contracting States which unjustifiably infringe the rights related to privacy of the individual. In its judgment *H. c. Finland*<sup>107</sup>, the ECHR considers not disproportionate imposition of the Finnish legislation against the applicant who requested that the full recognition the new sex, with the explicit assignment of a social security number of women, it was not conditional on the conversion of his marriage with a woman in a registered partnership. Therefore, it is not considered detrimental to Art. 8 ECHR, the "downgrading" of

<sup>101</sup> v. *Schalk e Kopf c. Austria*, cit.

<sup>102</sup> With particular reference to the notion of "family life" in doctrine has emphasized the challenges connected with a casuistic approach and often non-unitary adopted by the Strasbourg Court. L. DE GRAZIA, *Il diritto al rispetto della vita familiare nella giurisprudenza degli organi di Strasburgo: alcune considerazioni*, in *DPCE*, 2002, n. 3, p. 1069 ss.

<sup>103</sup> S. TONIOLO, *Le unioni civili nel diritto internazionale privato*, Milano, 2007, p. 35 ss.; G. FERRANDO, *Matrimonio e famiglia: la giurisprudenza della Corte europea dei diritti dell'uomo ed i suoi riflessi nel diritto interno*, in G. IUDICA, G. ALPA (edited by), *Costituzione europea e interpretazione della Costituzione italiana*, Napoli, 2006, p. 131 ss.; F. BIONDI, *L'unità familiare nella giurisprudenza della Corte costituzionale e delle Corti europee (in tema di ricongiungimento familiare e di espulsione degli stranieri extracomunitari)*, in N. ZANON (edited by), *Le Corti dell'integrazione europea e la Corte costituzionale italiana, Avvicinamenti, dialoghi, dissonanze*, Napoli, 2006, p. 63 ss.; S. PATTI, *La Famiglia*, in S. PANUZIO (edited by), *I diritti fondamentali e le Corti in Europa*, Napoli, 2005, p. 493 ss.

<sup>104</sup> European Court of Human Rights, 5.1.2010, *Jaremowicz c. Poland*, no. 24023/03, www.hudoch.echr.coe.int

<sup>105</sup> L. TOMASI, *Famiglia e standard internazionali di protezione dei diritti fondamentali, con particolare riguardo alla CEDU, in Diritto pubblico comparato ed europeo*, 2010, n. 2, p. 427 ss.

<sup>106</sup> European Court of Human Rights, *Grant c. United Kingdom*, 23.5.2006, no. 32570/03, www.hudoch.echr.coe.int.

<sup>107</sup> European Court of Human Rights, *H. c. Finland*, 13.11.2012, no. 37359/09, www.hudoch.echr.coe.int.

the condition double registered partnership or Art. 14 - in conjunction with Art. 8 ECHR - considering the condition of the applicant is not homologous to that of any other person wishing to obtain a social security number of women. The Court of Strasbourg believes that the persistence of differences between registered partnerships and marriage does not integrate any breach of conventional dictation, recognizing the states ample discretion to determine and adjust the status resulting from the two forms of union.

## Conclusion

And 'therefore can be noted that there remains a discrimination against citizens of States in which there is no possibility of seeing any form of legally recognized union other than the bed or access to which is limited to partners of the opposite sex, which is why the judge Strasbourg are called to rule. A line of evolutionary interpretation has also been chosen by the Court of Justice that already in the pronouncement *P. c. S. and Cornwall County Council*<sup>108</sup> applies an interpretation of Directive 76/207<sup>109</sup> that extends rights to transsexuals also governed, in this case on the working conditions, the right to change his sex to have an essential right of the he Court of Justice of U.E. back ruling on Social Security,<sup>110</sup> specifically the right to a survivor's pension for the surviving spouse of a heterosexual couple has become as a result of the sex of either spouse. The couple had decided to refer the matter to the Court of Appeal in Britain who chose to stay the action in reliance on the Court of Justice; the latter took the legislation of the United Kingdom, for the denial of the right to the surviving spouse, as opposed to Art. 141 EC and Directive 75/117/EC<sup>111</sup>.

In a preliminary *Richards c. Secretary of State for Work and Pensions*<sup>112</sup>, the Court of Justice interprets Art. 4, no. 1, of Directive 79/7<sup>113</sup> on the implementation of the principle of equal treatment between men and women extending even to the person who chose the female gender pension reserved for women. The judges then condemn the UK “derogate from the principle of equal treatment between men and women” considered that such treatment, according to the pension scheme, affects the rights of transsexuals.

From these judgments shows the detected evolutionary trend followed by the Court of Human Rights and the European Court of Justice with respect to the interpretation of those provisions of the ECHR and the Charter of Fundamental Rights of the E.U.. Reading extensively practiced by the two European courts, was shared and applied by the Supreme Court in the judgment in question, considering that Art.4of Act 164 of 1982 and Art. 31 of d.l. n. 150/2011 violate the rights of marriages where one spouse chooses to change gender; from that moment, the protection offered to heterosexual couples fails behaving, consequently, the deprivation of a status already acquired that personal conditions the family as a whole.

## References:

<sup>108</sup>European Court of Justice, *P. c. S. e Cornwall County Council*, 30.4.1996, C-13/94, [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu).

<sup>109</sup>Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment between men and women as regards access to employment, vocational training and promotion, and working conditions.

<sup>110</sup>European Court of Justice, *K.B. c. National Health Service Pensions Agency, Secretary of State for Health*, 7.1.2004, C-117/01, [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu).

<sup>111</sup>Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of Member States in implementing the principle of equal pay for male and female employees.

<sup>112</sup>European Court of Justice, *Richards c. Secretary of State for Work and Pensions*, 27.4.2006, C-423/04, [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu).

<sup>113</sup>Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment between men and women in matters of social security.

- V. BERGER, *Jurisprudence de la Cour Européenne des droits de l'homme*, XI ed., Parigi, 2009;
- R. BIFULCO, M. CARTABIA, A. CELOTTO, *L'Europa dei diritti. Commento alla Carta dei diritti fondamentali dell'Unione europea*, Bologna, 2011, p. 15;
- F. BIONDI, *L'unità familiare nella giurisprudenza della Corte costituzionale e delle Corti europee (in tema di ricongiungimento familiare e di espulsione degli stranieri extracomunitari)*, in N. ZANON (edited by), *Le Corti dell'integrazione europea e la Corte costituzionale italiana, Avvicinamenti, dialoghi, dissonanze*, Napoli, 2006, p. 63 ss.;
- F.D. BUSNELLI, *Importanza e limiti dei valori fondamentali della Carta europea*, in G. VETTORI (edited by), *Carta europea e diritti dei privati*, Padova, 2002, p. 133;
- F. CAGGIA, *Famiglia e diritti fondamentali nel sistema dell'Unione europea*, Roma, 2005;
- L. DE GRAZIA, *Il diritto al rispetto della vita familiare nella giurisprudenza degli organi di Strasburgo: alcune considerazioni*, in DPCE, 2002, n. 3, p. 1069 ss.;
- M. DE SALVIA, *Compendium della CEDU. Le linee guida della giurisprudenza relativa alla Convenzione europea dei diritti dell'uomo*, Napoli, 2000, p. 203 ss.;
- G. FERRANDO, *Matrimonio e famiglia: la giurisprudenza della Corte europea dei diritti dell'uomo ed i suoi riflessi nel diritto interno*, in G. IUDICA, G. ALPA (edited by), *Costituzione europea e interpretazione della Costituzione italiana*, Napoli, 2006, p. 131 ss.;
- L. GAROFALO, *Obblighi internazionali e funzione legislativa*, Torino, 2009;
- F.G. JACOBS, R.C.A. WHITE, *The European Convention on Human Rights*, Oxford, 2006, IV ed., p. 241 ss.;
- G. OBERTO, *La tutela dei diritti fondamentali nelle Corti costituzionali, ovvero del difficile dialogo tra Carte e Corti*, in *Il diritto di famiglia e delle persone*, 2013, fasc. 1, p. 221;
- N. PARISI, *Funzione e ruolo della Carta dei diritti fondamentali dell'Unione europea nel sistema delle fonti alla luce del Trattato di Lisbona*, in *Il diritto dell'Unione europea*, fasc. 3, 2009, p. 653;
- S. PATTI, *La Famiglia*, in S. PANUZIO (edited by), *I diritti fondamentali e le Corti in Europa*, Napoli, 2005, p. 493 ss.;
- C. PRAVANI, *art. 8 Diritto al rispetto della vita privata e familiare*, in C. DEFILIPPI, D. BOSI, R. HARVEY (edited by), *La Convenzione Europea dei diritti dell'uomo e delle libertà fondamentali*, Napoli, 2006, p. 291 ss.;
- C. RUSSO, *art 8 § 1*, in L.E. PETTITI, E. DECAUX, P.H. IMBERT, *La Convention Européenne des droits de l'homme, Commentaire article par article*, Parigi, 1995, p. 305 ss.;
- L. TOMASI, *Famiglia e standard internazionali di protezione dei diritti fondamentali, con particolare riguardo alla CEDU*, in *Diritto pubblico comparato ed europeo*, 2010, n. 2, p. 427
- S. TONIOLO, *Le unioni civili nel diritto internazionale privato*, Milano, 2007, p. 35 ss.;
- P. VAN DIJK, J.H. GODEFRIDUS HOOF, G.J.H. VAN HOOF, *Theory and practice of the European Convention on Human Rights*, The Hague, 1998;
- V. ZAGREBELSKY, *Famiglia e vita familiare nella Convenzione europea dei diritti umani*, in M.C. ANDRINI (edited by), *Un nuovo diritto di famiglia europeo*, Padova, 2007, p. 115 ss
- V. ZENO ZENIVICH, *Art. 8, Diritto al rispetto della vita privata e familiare*, in S. BARTOLE, B. CONFORTI, G. RAIMONDI, *Commentario alla Convenzione europea per la tutela dei diritti dell'uomo e delle libertà fondamentali*, Padova, 2001, p. 307 ss..