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ABSTRACT

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INTERNATIONAL PROTECTION AND VIOLENCE AGAINST WOMEN IN THE RECENT CASE LAW OF THE EU COURT OF JUSTICE

The research aims to describe the recent case law of the EU Court of Justice on the recognition of international protection to women exposed to gender-based violence.
It will begin with a brief exposition of the legal framework on the subject, highlighting the original "male-centric" connotation of the Geneva Convention on Refugee Status and the tipping point represented by the European Union's accession to the Istanbul Convention, which, in Article 60, requires States Parties to consider violence against women as a form of persecution and to ensure a gendered reading with regard to each one of the grounds of persecution.
The content of the three 2024 judgments by which the Court of Justice, drawing on the principles introduced by the Istanbul Convention and broadly interpreting the notion of a "particular social group", has progressively widened the margins of protection for women asylum seekers exposed to the risk of gender-based violence in their respective countries will then be analyzed.
In its judgment of January 16, 2024, Case C-621/21, WS, the Court declared that women can constitute a "particular social group", on the one hand, as a whole - and thus by virtue of simply belonging to the female sex and gender - and, on the other hand, as belonging to groups identified on the basis of an "additional common characteristic" to gender; and, clarifying how this solution is valid even where the perpetrator of persecution is a private individual, it extended the possibility of refugee status recognition to victims of domestic violence as well.
The June 11, 2024, judgment, Case C-646/21, K and L, focuses on the category of women belonging to a "particular social group" identified on the basis of an "additional common characteristic" bringing back to it women who, as a result of a prolonged stay in an EU Member State, have developed an "genuine identification" with the fundamental value of equality between women and men.
The judgment of October 4, 2024, Joined Cases C-608/22 and C-609/22, AH and FN, on the other hand, returns to the "social group" formed by women as a whole, stating that the mere operability, in a given country, of a sum of measures that seriously discriminate against women - in the present case, the measures taken by the Taliban in Afghanistan following their return to power - should be qualified per se as an act

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of persecution under the notion of refugee, and that the individual examination of the asylum application of women from such backgrounds can be limited to ascertaining the elements of nationality and gender.
In conclusion, note will be taken of the criticisms of the case law under review from the opposing sides of those who consider it a source of an excessive broadening of the notion of refugee and those who, on the other hand, consider it even prejudicial insofar as it is likely to feed the stereotype of the "victimized, poor and vulnerable migrant woman". Both positions will be countered by the fact that the Court does not establish, for the competent authorities, obligations but only faculties, requiring them neither to automatically grant refugee status to women nor to exclude the relevance of reasons for persecution other than belonging to a "particular social group".

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ROSARIA BELMONTE (Ph. D. Candidate in "Legal Sciences" – Private Law *Curriculum* – 40th Cycle)

THE IMPACT OF ARTIFICIAL INTELLIGENCE SYSTEMS ON THE EMPLOYMENT RELATIONSHIP: BETWEEN THE PRINCIPLE OF TRANSPARENCY AND THE PROTECTION OF THE WORKER'S SENSITIVE DATA

The research project starts from the consideration that the use of artificial intelligence in the business and work sector is capable of a significantly impact on the profiles management of work relations, causing the search for new balances in the power relations, currently in poised.
First of all, this study highlights the tendency of the employer to delegate typical functions and decisions to digitalized systems, such as, the determination of performance, the control of working hours and the exact fulfillment of the obligation as it is shown in the contract. Undoubtedly, from one hand, non-human action can increase the employer's authority; on the other one, it is potentially suitable to have a negative impact on the rights of the worker, and, in particular, on the privacy, when his data are used to extend and manage the work.
In addition, artificial intelligence is characterized by obscure traits that make it difficult for the worker to know the quantity and the quality of information has been acquired and processed by the system. Consequently, it emerges a cognitive asymmetry because the worker is not given to know what personal data and in which manner will be processed by the algorithm.
Based on these premises, the work aims to analyze the new and original production of the regulations on the relationship between AI and labor law, both on national and European plan, that promotes, on one side the technological innovation, and on the other side the safeguard of the fundamental human rights.
Without prejudice to the provisions of the Regulation (UE) 2016/679 (GDPR), the Italian legislator considered the information obligations a form of guarantee of the dignity of the worker against the deployment of hidden employer power, so he intervened on the use of automated decision-making or monitoring systems in the art. 1 bis of Legislative Decree n. 152/1997, first amended by Legislative Decree 104/2022 (Transparency Decree) and then by Legislative Decree n. 48 of 4 May 2023, converted, with amendments, by Law n. 85 of 3 July 2023 (Employment Decree), ensuring algorithmic transparency on both an individual and collective level.

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As far as European measure is concerned, the relationship between work and artificial intelligence is regulated across the board by Regulation (EU) 2024/1689 (AI ACT), which came into force on 01/08/2024, through the provision of a prevention model of reasonably and foreseeable risks, under conditions of correct use of the devices or those that could emerge in the event of improper use, as well as an impact assessment system, similar to the DPIA referred to in the GDPR.
Furthermore, Directive N. 2024/2831 on the matter of digital platforms, which came into force on 1/12/2024, introduces a specific regulation on algorithmic management in the era of digital work. Taking into account the insufficient transparency of automated decision-making and monitoring systems, it promotes a social dialogue in order to guarantee workers and their representatives greater transparency and understanding of algorithmic management practices, as well as more effective access to remedies against automated decisions.
For these reasons, the aim of the project will be to write a thesis that considers the developments of the relationship between work and IA, the findings application, as well as the doctrinal and jurisprudential exegesis on the issue.

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STEFANO BUSILLO (Ph. D. Candidate in "Legal Sciences" – International, European and Comparative Law *Curriculum* – 37th Cycle)

RENEWABLE ENERGY AND EUROPEAN FUNDING: TOWARDS A TRULY GREEN AND ECO-SUSTAINABLE COMPANY

Energy regulation has historically been enucleated within the so-called domestic jurisdiction of States by virtue of the perception that this was part of those strategic sectors that require national exclusive discipline. However, as is well known, the reserved domain of the State has been progressively eroded over time, expanding the volume of matters involved in international and European Union's cooperation, and therefore its regulation at those level. And it is precisely in this context that environmental law first originated, which is essential for dealing with these ecological threats as well as for integrating the idea of long-term environmental protection into the global economy. At the same time, the economic right of the individual, i.e. the entrepreneur, who intends – for the purpose of energy production – not only to make use of new technologies for the production of clean electricity, but also of the means of support for this change with respect to traditional sources, is superimposed. Hence, in a global context that is increasingly attentive to sustainability, the final essay of my PhD course aims to identify and organize the characteristic elements of the European and national discipline of financing in the field of environmental sustainability of companies, with specific reference to forms of economic support intended for the development and consolidation of the so-called green energy. Following the indications of Ministerial Decree no. 1062, from which the topic of investigation originates, the idea that underpins the research activity, is in general to create a scientific product that allows national entrepreneurs to identify, receive and correctly invest funding on renewable energy, both from the Union and nationally. Accordingly, the outlining of the energy and financing disciplines is followed by the profiling of "risks", i.e. the identification of those environmental and/or economic principles (for example, in terms of State aid), which can weaken the expectations of the

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entrepreneur, as well as frustrate a potential technological investment by the latter which, however, is not followed by the apprehension of the imagined financing. In particular, as is well known, by virtue of the principle of attribution, since the Treaty of Lisbon, energy policy has been brought back to the so-called shared competences of the European Union pursuant to Article 4, paragraph 2, letter i) of the Treaty on the Functioning of the European Union, further acquiring an explicit legal basis with Article 194 of the TFEU. Although this development has presumably promised a supranational turning point in the EU's energy policy, the policy remains – so to speak – highly contested both internally within the European institutions and in horizontal relations between states which, basically, bolters the aforementioned "risks". In the light of this, the research activity must take into account the national policy and the alterations related to the governance structure that is ruling the EU energy policy.

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ANDREA CASTALDO (Ph. D. Candidate in "Legal Sciences" – International, European and Comparative Law *Curriculum* – 39th Cycle)

THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE (EPPO) AS A NEW ACTOR IN THE AREA OF FREEDOM, SECURITY AND JUSTICE. CRITICAL ISSUES REGARDING FUNDAMENTAL RIGHTS AND FUTURE PROSPECTS

The creation of the EPPO has been an important step towards the integration of European criminal justice, a further element in the development of the European Area of Freedom, Security and Justice. The idea behind the research project is aimed at investigating the relationship between the operations and activities of the European Public Prosecutor's Office (EPPO) - which for about four years has begun to assume increasing importance in the supranational investigative panorama, with various repercussions on national systems - and the respect and protection of fundamental rights provided for by the Charter of Fundamental Rights of the European Union (CFR).
For example the risks for the fundamental rights of citizens involved in criminal proceedings emerge from the margins of discretion in the choice of applicable national law, as well as from the exercise of investigative powers, procedural guarantees, judicial control and the admissibility of evidence. The Reg. 2017/1939 reserves only Article 41 for defensive guarantees, also referring to the CFR in a self-referential way, probably this reference is too small in light of a complex and articulated legislation.
There are certainly congenital criticalities of EPPO, in light of a substantive and procedural criminal law that is not sufficiently or not entirely harmonized in the various member countries - the problem is that EPPO has more than twenty divergent national legal systems with which to coordinate - this is because the regulatory and primary source of EPPO is incomplete, insufficient and omits numerous procedural aspects, with a heterogeneous and complex framework.
By doing so, there is a risk of increasing the dangerous phenomenon of forum shopping, by virtue of the differences, even profound ones, between the various regulations of the States Parties capable of influencing the formation and acquisition of evidence and its usability during trials.
Also problematic is the role of the Permanent Chambers, a different body, additional and hierarchical compared to the European Prosecutor who is dealing with the case, which should be independent and

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autonomous. Just as we must ask ourselves what the future of this European institution is, both in terms of regulatory development and actual results, which to date seem to be positive and harbingers of greater attention to the protection of European financial interests. Furthermore, it is central to understand the possibility of an expansion of the EPPO's competences, not an indiscriminate expansion, but a considered and reasoned one, with a view to an ever-improving integration with national investigative and judicial offices, which to date seems to be excessively complex and with unclear contours.

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MICHELA FALCONE (Ph. D. Candidate in "Legal Sciences" – Private Law *Curriculum* – 40th Cycle)

THE PHENOMENON OF GENERATIONAL TRANSITION OF BUSINESS

The generational transfer of wealth and assets constitutes an issue that businesses and families nowadays are frequently confronted with. In recent years there has been a growing awareness that the phenomenon of the generational transfer of wealth must necessarily materialize in a planned path, aimed at ensuring the preservation and management of assets, with more specific regard to businesses. Such a path is inevitably accompanied by a transfer of subjective situations and related responsibilities and which, often, may present profiles of complexity such as to require that the governance of the same take place through the use of appropriate legal instruments.

With this in mind, the central moment of the affair centers, precisely, on the exact identification of the negotiating paradigms employed in the transition process. This research project intends to focus, in particular, on the role played by the fiduciary mandate in generational transition transactions. The case under consideration will be compared, highlighting its distinctive features, which are conceptually evident, but in the practice of application appear to be more nuanced, with other legal instruments that in recent years are assuming significant importance, including the trust, the real destination bonds referred to in Article 2645 ter of the Civil Code and the newly minted contractual figure represented by the contract of trusteeship. All this through a comparative analysis, of the phenomena of the split between formal and substantive ownership of subjective legal situations and, more generally, of the phenomena of asset segregation.

In this perspective, the application of the figure in question in the context of transactions pertaining to the intergenerational transfer of ownership of corporate shareholdings will be explored in depth, including through the analysis of specific negotiation models. Moreover, the topic raises issues that have already been raised with reference to the phenomena of fiduciary registration of corporate shareholdings. The fiduciary transfer of corporate shareholdings poses peculiar problems compared to classic cases of fiduciary registration, mainly related to the complexity of the relationship in question, the management of which consists of an ongoing activity by the trustee. The corporate shareholding arises from an affair of investment and entrusting of values by the shareholder to the company with a view to the attainment of utility, integrating complex active and passive subjective situations.

Within this framework, particular attention will also be paid to the recent reconstruction of the fiduciary registration of shares or company shares as a de facto situation, favoring a reconstructive option within

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which the trustee is qualified as a depositary of the shareholdings in the interest of others, while the trustor as the actual holder of the economic interest underlying the shareholdings themselves.
It will be impossible not to highlight, the use of the trust mechanism made in the context of shareholders' agreements. At the stage of implementation of such agreements, it is the practice to proceed with the heading of participations conferred to the covenant in the head of a single person, in whom the parties trust, in order to make sure that the commitments made are fulfilled.
Against this background, the research project aims, therefore, to analyze the figure of the trusteeship in relation to other legal instruments, to regulate the phenomenon of generational transfer of wealth.

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ATTILIO SENATORE (Ph. D. Candidate in "Legal Sciences" – International, European and Comparative Law *Curriculum* – 39th Cycle)

CLIMATE CHANGE AND ACCESS TO RESOURCES: THE NEW FORMS OF FOOD INSECURITY

Climate change is known to constitute one of the most complex and urgent challenges of our time. Its nature as a "threat multiplayer" cuts across numerous areas such as international security, sustainable development and the full realization of human rights. Environmental deterioration, increased frequency and intensity of extreme weather events, rising sea levels and altered ecological cycles all contribute to worsening conditions of poverty, exacerbating inequalities and generating severe and often irreversible impacts for present and future generations. From this perspective, the contemporary agrifood system is intrinsically linked to the adverse effects of climate change, generating a complex "circular" relationship: on the one hand, the negative externalities of the food industry throughout its supply chain cause damage to the environment by exacerbating the ongoing climate crisis and contributing significantly to the emission of greenhouse gases; on the other hand, the progressive alteration of ecosystems and the increase in extreme weather phenomena are causing the compromise of agricultural production, accentuating food insecurity and triggering dynamics of instability especially for vulnerable subjects and populations. With respect to this, the perimeter of the investigation will be characterized by a premise on the framing of the legal nature of the right to food, tracing its historical evolution and progressive formal recognition as a human right, in light of the most recent normative developments at the international level. The analysis will therefore focus on the biunivocal relationship between the right to food, food safety, food security and climate change as an incremental phenomenon of food insecurity.

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EMANUELE VANNATA (Ph. D. Candidate in "Legal Sciences" – International, European and Comparative Law *Curriculum* – 36th Cycle)

EUROPEAN UNION, CLIMATE JUSTICE AND HUMAN RIGHTS-BASED APPROACH

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The research aims to analyze the evolutions of international law and European Union (EU) law in the context of environmental protection, with particular regard to the issue of climate change and its justiciability before the Court of Justice of the European Union. The investigation intends to move in the regulatory and jurisprudential framework of environmental protection, taking into account both the international and European Union level, presenting the measures undertaken and the instruments adopted, in order to allow a comparative analysis of the various plans that can grasp their consistency but, above all, their limits. The attention will then be focused on the more specific issue of climate change and on the effective contribution of human rights to climate justice in the perspective of identifying its potential in the face of the evident systemic and technical difficulties underlying the relationship between climate change and human rights, through the reconstruction and detailed analysis of the existing norms of customary and treaty international law on human rights as well as the divergences in application on the protection of rights related to climate change subsisting, in particular, among most relevant domestic, European and international jurisprudence. Finally, the investigation will focus on the relationship between the European Union, climate change and climate justice, aiming to question, in particular, the role of EU judge in ensuring the effective and real enjoyment of human rights related to the environment and climate, critically analyzing the presence of adequate judicial protection in the event that attention to "environmental priorities", which have become strategic objectives of the European Union, should not be adequately guaranteed by the EU member States or institutions. Without the presumption to identify a unique trajectory capable of saving the planet from global warming, in the awareness of the shortcomings of the ambitious results in the way of the ongoing climate crisis and the almost unstoppable decline of the ecosystem, the present work tries to identify what is the direction in which the European Union's environmental law enforcement system – especially in the light of the reforms to achieve neutrality climate justice and the continuing difficulties posed by access to justice in climate matters – should be addressed and what is the possible contribution of European climate justice to global climate governance, in ensuring the best possible outcomes to address the large legal vulnerabilities to climate change. In particular, the research suggests a human-rights-based approach as the guiding star of a "practical and effective" protection of rights, reshaping legislative policy, through the judge-made rulings, and placing it in relation to the defense of fundamental human rights, which are assumed to be able to prevail over state authority itself in favor of the inviolable protection of the lives of associates, strongly at risk due to the devastating effects of climate change.

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