

## Italian Private Law By Guido Alpa

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Compensation for Personal Injury in English, German, and Italian Law Basil S. Markesinis , Michael Coester , Guido Alpa , Augustus Ullstein ISBN 9780521846134 Published February 2005 Cambridge University Press

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Providing an overview and analysis of Italian private law and its transition from the early 20th century legal tradition to a system based on constitutional values, this text explores its eclectic yet systematically solid foundations as well as the pressure of EU legislation and the profound influence of case-law and legal scholarship.

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Legal systems in Europe are now converging, and the *acquis communautaire* is helping this process. Legal cultures are merging too. Legislators and judges can profit from foreign experiences when they try to achieve a satisfactory balancing of conflicting interests. The needs of a general codification are now challenged. It is necessary to 'rebuild' the old machine of the law, taking into account the living sources emerging within society. In Italy, as well as in Europe at large, soft law is now replacing hard law. Italian private law is under a complex and fascinating process of evolution. Its Roman and French roots, and the legacy of the codification age, are now merged with EC law and with other sources of law. This book - divided into five parts - examines Italian private law. Part I is devoted to the resolution of some of the most important and difficult problems in private law - the definition of personal injury and the application of various methods of calculation of damages, the hypotheses of strict liability in tort area, environmental damage, freedom of contract, and the results of the application of the EC Directive on unfair clauses in consumer contracts. Part II looks at commercial law, considering consumers' interests, financial services (and the Parmalat case), competition and fair trade, mergers, and the transparency of banking contracts. The legal profession, as now regulated in Italy, is the subject developed in Part III. Part IV and Part V end the book with reviews of some relevant contributions of English jurists to the discussion of the present needs of legal systems in Europe and includes an essay on the new aspects and meanings of legal certainty.

While the internationalisation of society has stimulated the emergence of common legal frameworks to coordinate transnational social relations, private law itself is firmly rooted in national law. European integration processes have altered this state of affairs to a limited degree with a few, albeit groundbreaking, interventions that have tended to engender resistance from various actors within European nation-states. Against that background, this book takes as its point of departure the need to understand the process of legal denationalisation within broader political frameworks. In particular it seeks to make sense of opposition to Europeanisation at this point in the evolution of European law when, despite growing nationalist attitudes, great efforts have been made to produce comprehensive legal instruments to synthesise general contract law - an area that has traditionally been solely within

the ambit of nation-states. Combining insights from the disciplines of law, history and political science, the book investigates the conceptual and cultural associations between law and the nation-state, examines the impact of nationalist ideas in modern legal thought and reveals the nationalist underpinnings of some of the arguments employed against and, somewhat paradoxically, even in support of legal Europeanisation. The author's research for this book has been supported by the Hague Institute for the Internationalisation of Law.

The Italian original of this book, *Che cos'è il diritto privato?*, is widely recognized as an influential treatise on the basic methods of legal science, introducing the student to the main institutions and theories of Italian and European Private law, as well as to the basic ideas and principles related to the concept, function and purpose of Italian and European Private law. In translation, this book thus provides any reader with the perspective of the Italian student of law on the ideas that have shaped legal practice in Italy and on the continent of Europe. Its unique value lies in the fact that it is not a gloss, not secondary literature, not an interpretation and not a summary -- it is a direct, primary source made available to readers in the English language for the first time.

Comprising an array of distinguished contributors, this pioneering volume of original contributions explores theoretical and empirical issues in comparative law. The innovative, interpretive approach found here combines explorative scholarship and research with thoughtful, qualitative critiques of the field. The book promotes a deeper appreciation of classical theories and offers new ways to re-orient the study of legal transplants and transnational codes. *Methods of Comparative Law* brings to bear new thinking on topics including: the mutual relationship between space and law; the plot that structures legal narratives, identities and judicial interpretations; a strategic approach to legal decision making; and the inner potentialities of the 'comparative law and economics' approach to the field. Together, the contributors reassess the scientific understanding of comparative methodologies in the field of law in order to provide both critical insights into the traditional literature and an original overview of the most recent and purposive trends. A welcome addition to the lively field of comparative law, *Methods of Comparative Law* will appeal to students and scholars of law, comparative law and economics. Judges and practitioners will also find much of interest here.

Derived from the renowned multi-volume *International Encyclopaedia of Laws*, this practical analysis of the law of business formations in Italy provides quick and easy guidance on a variety of corporate and partnership considerations such as mergers, rights and duties of interested parties, stock exchange rules, labour laws, and takeovers. Lawyers who handle transnational business will appreciate the explanation of local variations in terminology and the distinctive concepts that determine practice and procedure. A general introduction covering historical background, definitions, sources of law, and the effect of international private law is followed by a discussion of such aspects as types of formation, capital, shares, management, control, liquidation, mergers, takeovers, holding companies, subsidiaries, and taxation. Big companies, various types of smaller entities, and partnerships are all covered in turn. These details are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance. Thorough yet practical, this convenient volume puts the information necessary for corporations to compete effectively at the user's fingertips. An important and practical tool for business executives and their legal counsel interested in engaging in an international partnership or embarking on corporate expansion, this book will prove a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in Italy will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative business law.

The question of whether the meaning of terms used in treaties can evolve over time is highly contentious within international law. This book examines how treaties should be interpreted, and how best to marry the intention of the parties to the treaty with the changing socio-political context over time.

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