

# IL DIRITTO DI FAMIGLIA E DELLE PERSONE

**Il rifiuto di sottoporsi a vaccinazione anti-Covid-19 non giustifica la revoca delle misure temporanee di accoglienza del richiedente asilo. Spunti di riflessioni dal diritto amministrativo al diritto civile.**

Since a case of withdrawal of the reception measures for an asylum seeker for refusing to undergo anti-Covid-19 vaccination, the question arises of identifying the positive indication of the alleged obligation. In his absence there can be no violation, therefore sanction. The case is also an opportunity to make some considerations on the system of indirect obligations and on the system of incentives, considered unfit to constitute the criterion of balancing fundamental rights, especially if the legislation on Covid-19 states a different purpose than the approved therapeutic indication on Covid-19 vaccines.

di ALESSANDRO BENNI DE SENA

**(Chierici pedofili, esercizio della giurisdizione penale e inapplicabilità del *ne bis in idem*: l'*ordinata colligatio* Stato/Chiesa a tutela dei minori.**

The note analyses the question regarding the enforceability of the prohibition of double jeopardy to the connection between canon legal system and Italian legal system. The Court of Cassation affirmed that *de iure condito* there is any possibility to do it. Indeed, the principle *ne bis in idem* is not included in the rules of general international law referred by the article 10 of the Italian Constitution. Moreover, there is not any relevant conventional rule: the Holy See has not signed neither the European Convention on Human Rights, nor the Convention Implementing the Schengen Agreement; the Lateran Treaty does not include applicable rules. The art. 20 of the Treaty regards only the absence of customs barriers between Vatican State and Italy; the art. 23 regulates, in the first subsection, the enforcement in Italy of the judgements of the Vatican courts, which are totally different from the canon courts. Finally, the art. 23, second subsection, of the Treaty establishes the legal effect of the canon judgements, but it does not preclude the exercise on the same facts of the Italian judicial jurisdiction. It is also possible that the Italian court finds out some evidences from the canon judgement.

di PIETRO LO IACONO

prohibition of succession agreements pursuant to art. 458 of the Italian Civil Code and the rights of the legitimate holders pursuant to art. 536 ff. c.c. However, the case in question presents significant traits of interference between the insurance and inheritance laws. The essay, therefore, after having reported the main critical profiles given by the possible overlap between the two disciplines, proposes to evaluate the applicative potential of own life insurance in favor of a third party to protect, in the succession, the de facto cohabitant, to which the law n. 76 of 2016 did not attribute any inheritance rights.

*di* CARLO PETTA

### **Matrimoni non concordatari e decreto di esecutività dall'osservatorio del supremo tribunale della segnatura apostolica**

This contribution examines the peculiar aspects of the civil effects — according to Villa Madama Accords of 1984 — of the declaration of marriage nullity celebrated in India, Goa, Daman and Diu, England and Romania. As a fundamental normative source for comparison, the discussion proposes ecclesiastical and concordatory law, which specify the principles and constitutive structures of the holy marriage with civil recognition. Thus, special attention is given to the juridical repercussions that these principles have within the above mentioned countries.

*di* ENRICO GIARNIERI

### **L'amministratore di sostegno di comunità (ADSC) e i nuovi paradigmi per la tutela delle persone fragili**

Starting from an examination of the current situation and the socio-economic changes taking place, the paper deals with the issue of legal guardian (in Italy called “Amministratore di Sostegno”) until formulating the original proposal of the introduction of a new figure in Italian legal system to protect fragile people called community legal guardian (“Amministratore di Sostegno di Comunità”, AdSC). According to the author, the current and future scenarios and the critical issues that have emerged in the first two decades of legal guardian's life impose a necessary rethinking of the protective measure provided by Law 6/2004. The new measure of the community legal guardian would ensure greater consistency and organicity in the assignment of tasks, as well as more effective protection of the interests of the individual, both as an individual and, above all, as a person embedded in a broader community context.

*di* MATTEO MAGRI