



PRESENTAZIONE DEL VOLUME

Informazioni generali

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Title: **EU Law Enforcement. The Evolution of Sanctioning Powers**

Publisher and place of publication: **Giappichelli – Routledge, Turin – London**

Year: **2020**

Pages and price: **352 p., 147 euro**

Informazioni sul volume

Historically, EU sanctioning powers have been perceived as weak. As then Advocate General Tesauro pointed out in 1992, the limited power to issue sanctions conferred to the European Community for the breaches of EC law – for instance in the framework of infringement proceedings – was considered a source of shortcomings. (G. Tesauro, “La sanction des infractions au droit communautaire”, General Report, FIDE Report 1992). This lack of powers was mainly due to three factors. Firstly, in line with the vertical division of competences between the Community and the Member States, few legal bases in the original version of the Treaty (notably Arts 85 ff concerning competition rules applicable to companies) were deemed to endow the Community with sanctioning powers. Secondly, the Member States were unwilling to strengthen the enforcement powers of Community institutions, since enforcement of Community policies through sanctions was still perceived as a primary and almost exclusive task of the national authorities. Thirdly, the European institutions were themselves focused on developing the Community legal order and policies rather than on securing the implementation of relevant legislation at the domestic level.

The scenario has profoundly changed since. The enforcement and sanctioning powers of traditional actors have been strengthened. Besides the key-example of sanctions against Member States in the context of infringement proceedings, the EU institutions have acquired the power to punish breaches of European law in a variety of sectoral domains, such as environmental law, the banking union and foreign policy. In addition, new institutional actors have emerged, notably with some EU agencies being vested with enforcement responsibilities. Lastly, European institutions have increasingly placed the implementation of EU law and policies and the respect for EU values and principles at the domestic level among the most pressing challenges in their agenda. Against this background, the emergence of an articulated repressive machinery at supranational level is a sign of the degree of complexity and maturity reached by the EU legal order.

Yet, although the development of EU law enforcement schemes and methods has recently triggered insightful studies, the evolution of the EU's direct sanctioning power is still largely under-studied. The book therefore fills a gap in academic literature by providing a comprehensive picture of the phenomenon, including its systemic implications for the European legal order and the relationship between EU and national law.

The first chapters address general issues raised by the emergence of EU sanctioning powers. Miroslava Scholten offers a categorization of models of EU law enforcement, while Jacopo Alberti, which explores the diversification of entities endowed with sanctioning powers by focusing on EU agencies. In addition to mapping models and stakeholders, the book identifies the main triggers and rationales for the evolution of EU sanctioning power. Luca Prete explains the most recent developments in infringement proceedings in the light of the principle of effectiveness. His analysis is complemented by Matteo Bonelli's chapter, which provides an overview of mechanisms for the protection of EU values and especially the rule of law. The further the EU sanctioning authority expands, the greater the need becomes to establish appropriate limits on the use of punitive powers by EU institutions and bodies. From this perspective, Nicole Lazzerini and Stefano Montaldo address, respectively, fundamental rights and proportionality as constraints on the exercise of sanctioning powers.

The following chapter complement the analysis by mapping the scope and evolution of EU enforcement powers in selected policy areas. Alberto Miglio and Francesco Costamagna look at the variety of enforcement models in the EMU economic pillar, while Frédéric Allemand

focuses on the monetary pillar by providing a detailed analysis of the ECB's sanctioning toolbox. Two chapters deal with CFSP restrictive measures: Charlotte Beaucillon highlights their role as a tool of value exportation and Andrea Spagnolo discusses the legality of EU autonomous CFSP sanctions in light of international law. The concluding set of chapters covers policies where sanctions against individuals or undertakings play an important role in EU regulation. Luca Calzolari looks competition law fines, examining their legal nature, their rationale and the calculation methods. Francesco Munari outlines the main features of EU environmental law enforcement, where sanctioning tools against individuals complement sanctions against Member States in the context of infringement proceedings with a view to ensuring the effectiveness of EU environmental protection measures. Lastly, Paul de Hert's detailed analysis shows that the GDPR has brought about a true paradigm shift in law enforcement in the context of EU data protection law.