

BOOKS RECEIVED / LIVRES REÇUS

G. ALPA, *The Right to be Oneself – The Future of Private Law*, Bloomsbury Publishing, 2024, 304 pp., ISBN: 978-1-50997-244-9

Guido Alpa acknowledges the dual nature of law: while it has historically been used to oppress, it also holds the potential to protect and liberate. The paradox he identifies is that to protect diversity and difference, law must first recognize it. Yet, in recognizing and categorizing difference, law imposes a “mask” on identity, forcing individuals into predefined roles. This leads to the fundamental question: can law truly protect individuality and personal identity without imposing constraints on the very essence it seeks to defend?

Alpa’s interdisciplinary approach, combining legal theory with philosophical and sociological analysis, reflects on identity as both an evolving construct and a fundamental element of personal freedom. The author delves into the broader theme of recognition, emphasizing its necessity in social and legal contexts while critiquing its limitations. He argues that true freedom lies in the ability to construct one’s identity autonomously, and law should serve as a tool to support this freedom rather than restricting it with rigid, predefined roles. By viewing identity as a dynamic process rather than a fixed endpoint, Alpa envisions a legal system that can adapt to protect individuality in its full complexity.

E. Merli

C. ALVES DAS CHAGAS, *Judicial Avoidance - Balancing Competences in Constitutional Adjudication*, Hart Publishing, 2023, 176 pp., ISBN: 978-1-50996-149-8

An insightful exploration is provided into the phenomenon wherein constitutional courts refrain from adjudicating the constitutionality of a norm, introducing a novel approach that places significant emphasis on the nature of constitutional judgments and coins the term “judicial avoidance” to describe this practice.

At the core of the book, two critical questions of legitimacy are examined. First, is it legitimate for courts to engage in judicial avoidance? And second, how can judicial avoidance be legitimately practiced? These questions are not merely theoretical; they have significant implications for the function and integrity of constitutional adjudication. In response to the first question, the author argues that judicial avoidance is not merely an option available to courts, but is at times a necessary course of action. The second question can be effectively answered by taking into account multiple factors, as the decision to abstain from ruling is not merely a discretionary action.

Alves das Chagas' work is commendable for its comprehensive analysis of judicial avoidance, providing a balanced perspective on its advantages and challenges. The integration of case studies from multiple jurisdictions enriches the discussion, offering readers a comparative lens through which to understand the complexities of constitutional adjudication.

L. Canepone

S. DEMKOVÁ, *Automated Decision-Making and Effective Remedies: The New Dynamics in the Protection of EU Fundamental Rights in the Area of Freedom, Security and Justice*, Elgar Studies in European Law and Policy, Edward Elgar Publishing, 2023, 226 pp., ISBN: 978-1-0353-0660-2

There is an increasing tendency among public authorities in the EU to rely on information processed and generated through automation technologies for decision-making. However, this trend brings significant legal challenges to the protection of fundamental rights of citizens, particularly in multi-step procedures involving various EU and Member States' authorities. To what extent individuals have effective legal protection of their fundamental rights in these EU composite procedures? Based on a detailed analysis of the EU legal framework – including relevant laws, involved authorities, and remedies available to citizens against legal decisions arising from EU multi-step procedures, with a particular focus on the Schengen Information System – the book suggests that the legal protection of individuals' rights is undermined.

Overall, the book serves as an important reference for scholars, legal practitioners, and policymakers interested in the intersection of technology, law, and fundamental rights. It highlights the challenges associated with the use of information technologies in public authorities' decision-making within the complex EU environment.

A. Ochoa Corzo

M. P. FORAN, *Equality Before the Law – Equal Dignity, Wrongful Discrimination, and the Rule of Law*, Oxford, UK; New York: Hart Publishing, An Imprint of Bloomsbury Publishing, 2023, 232 pp., ISBN: 978-1-5099-6494-9

The importance and ever-presence of the topic can be seen in the fact that the well-known Justitia represents equality as one key element of law with her blindfold. The book starts with a detailed analysis of what defines the term of legal equality. Different quotes are shown, and historical aspects are examined. In addition, the most historically important cases are included in the argumentation as examples; especially the case of *Dred Scott vs Standford*. In the chapter of "Equal Dignity and the Rule of Law", there is one theoretical example: If you had two sick children, but just one medicine, how would the treatment be equal? If the most unwell child gets the medicine? Or if nobody gets it? Or probably if both get a half? Using these questions, problems are clearly shown. The topic of direct and indirect discrimination is discussed in detail. A particularly considerable number of examples are given here, and arguments are presented clearly and in an exemplary manner. In this context also the question of whether the goal is to just prohibit discrimination or to create equal starting points, is raised. That is discussed with many quotes. Overall, the book gives a well-founded analysis and presentation of the individual aspects related to the topic of equality before the law.

I. Tkatschenko

A. ROSAS / J. RAITIO / P. POHJANKOSKI, *The Rule of Law's Anatomy in the EU*, Oxford, UK; New York: Hart Publishing, An Imprint of Bloomsbury Publishing, 2023, 240 pp., ISBN: 978- 1-50995-507-7

The book stresses that there is a link between democracy, human rights and the rule of law. Especially because democracy is in decline over the past few years, the topic of the rule of law and the impact on democracy and human rights is of great importance. The book is divided into two main parts: foundations and protections. A very interesting term appears in the first part of the book. It describes democracy and the rule of law as Siamese twins. This metaphor makes the reader think about the impact of the rule of law well and is quite accurate. Overall, the first part of the book provides a well-founded analysis of what impact the rule of law has and how it can be achieved. The second part of the book then provides an extensive research and many approaches to how this knowledge can be used. The book deals with the situations in Poland and Hungary and gives many examples of how the rule of law could be used to improve those situations. However, this book also points to some problems like the jurisdictional gap or the difficulty of judicial independence. Particularly remarkable is that the entire approach is closely based on the law and that the law is repeatedly included in the argumentation. This book combines well-founded information with an insight into various influences for the rule of law and highlights current political issues.

I. Tkatschenko