

Bibliografía / Bibliography

VV.AA., *Identità di genere e diritto: percorsi di ricerca*, POSTERARO, Nicola / BUSATTA, Lucia / LIBERALI, Benedetta / MAGLIARI, Andrea (Coords.), Editoriale Scientifica, Naples, Italy, 2026, 474 pp.

The monograph which is the subject of our commentary “*Identità di genere e diritto: percorsi di ricerca*”—coordinated by Nicola POSTERARO, Lucia BUSATTA, Benedetta LIBERALI and Andrea MAGLIARI, summarises the results of the second year of research of the PRIN PNRR 2022 “T.R.A.N.S.” project, financed through the European Union’s Next Generation Programme.

It is noteworthy that the work is situated within the contemporary debate on the legal regulation of gender identity and more specifically on the need to critically reconsider traditional models of legal gender recognition, still in force in legal systems such as the Italian legislative system under Law No. 164/1982.

From its opening premise, the book presents itself as a collective scientific work that seeks to move beyond a strictly doctrinal reading of the phenomenon, proposing instead a systematic, comparative and interdisciplinary approach.

The main distinctive feature of the book is precisely its interdisciplinary vocation, which is not limited to a mere juxtaposition of perspectives but rather aims to construct a common analytical framework in which constitutional law, administrative law, European Union law, health law and sports law engage in continuous dialogue. This methodological choice is grounded in the premise that gender identity cannot be adequately understood through a single legal view, as it is a phenomenon involving deeply interconnected social, medical and normative dimensions. In this sense, the volume departs from more traditional approaches focused exclusively on civil status or judicial intervention and instead adopts a broader perspective that conceives identity as a relational and dynamic process.

In terms of the structure of this book, the content of the volume is organised into several thematic sections which, taken together, provide a comprehensive overview of the current state of the debate. One line of analysis focuses on highly sensitive bio-legal issues such as fertility preservation in gender affirmation processes. These contributions explore the tensions between the principle of personal self-determination, the protection of bodily integrity, and potential future parental expectations, highlighting the need to balance potentially conflicting fundamental rights. This approach shows how gender transition processes cannot be reduced to a purely administrative or civil status dimension, but instead involve complex existential decisions with profound implications.

Another significant part of the research is devoted to the comparative analysis of European legal systems of gender recognition. In this context, particular attention is given to Germany, France, Switzerland and Belgium, as well as to recent normative reforms in Spain. The comparative analysis reveals a general trend across several European jurisdictions towards the progressive de-judicialization of legal gender recognition procedures and their replacement with administrative models based on self-determination. In particular, the German evolution towards a system based on personal declaration, as well as the Spanish model introduced by Law 4/2023, are highlighted as emblematic of this shift. This contrasts sharply with the Italian model, which remains grounded in judicial intervention, and this implicit comparison constitutes one of the underlying threads of the volume.

Closely connected to comparative law, the book also examines the impact of European Union law on gender identity, particularly through the case law of the Court of Justice of the European Union. A central focus is the *Mirin* case, which raises important questions concerning free movement and the cross-border recognition of civil status. The core issue is whether Member States are obliged to recognise legal gender changes performed in other Member States, thus opening a broader discussion on the indirect harmonisation of personal status within the EU legal order. The volume emphasises how EU jurisprudence is increasingly shaping minimum standards for the recognition of gender identity across Europe.

Alongside these dimensions, the book pays significant attention to the role of public administration as a guarantor of fundamental rights, exploring the possibility of a gradual de-judicialization of gender recognition procedures. This line of inquiry challenges the traditional model based on judicial oversight as the primary safeguard of legal gender recognition and considers administrative procedures that are faster, less costly, and less intrusive. In this context, the analysis connects with broader debates on the evolving role of administrative law in the protection of fundamental rights.

In this sense, I would like to highlight another important section of the volume which addresses the medical, psychological and social dimensions of gender identity. The chapters in this section examine the practical difficulties faced by trans individuals in accessing healthcare, as well as the limitations of traditional clinical models that have historically contributed to the pathologisation of trans identity. From a psychological perspective, the book questions the centrality of diagnostic frameworks in legal recognition procedures and emphasises the need for approaches that respect personal autonomy and the diversity of gender experiences. This interdisciplinary approach enriches legal analysis with empirical and clinical insights essential to understanding the underlying social reality.

The volume also includes a focused analysis of data protection law under the General Data Protection Regulation (GDPR), highlighting the importance of the right to rectification as a key legal instrument for protecting gender identity in administrative and digital contexts. Here, attention is drawn to the tension between the stability of public records and the need to ensure that personal data reflects an individual's lived identity.

It is particularly interesting to highlight the section on sports law which addresses controversies surrounding the participation of transgender athletes in elite competition. This debate is presented as a paradigmatic example of the tension between inclusion and competitive fairness, particularly in the context of regulatory frameworks adopted by international sports federations. While the volume does not adopt a single normative stance, it highlights the technical and ethical complexity of these regulatory choices.

From a critical perspective, the work stands out for its systematic ambition and its capacity to articulate a coherent discourse around the need to update existing legal frameworks on gender identity. In particular, there is a general orientation towards overcoming the Italian model based on mandatory judicial intervention, which is increasingly seen as outdated in comparison with more recent European developments. However, this reform-oriented perspective coexists with the inherent diversity of a collective volume, where doctrinal, descriptive, and theoretical approaches vary in depth across contributions. This internal heterogeneity does not diminish the value of the work; rather, it reflects the intrinsic complexity of the subject matter and the plurality of perspectives required to address it adequately.

All in all, the volume constitutes a highly significant contribution to the contemporary legal debate on gender identity in Europe. Its main merit lies in offering a broad, comparative, and interdisciplinary perspective that situates the Italian case within a wider European trend towards the progressive de-judicialization and simplification of gender recognition procedures. At the same time, it is a valuable resource not only for scholars but also for legal practitioners and policymakers, at a time when many jurisdictions are rethinking their normative frameworks in this field. Due to all these reasons the volume contributes meaningfully to the consolidation of a more informed, critical, and open legal reflection on one of the most relevant issues of contemporary law.

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