

Basile F., *Commento all'art. 59 sub B*, estratto da *Aa.Vv., Codice penale commentato*, fondato da E. Dolcini, G. Marinucci, Milano, Wolters Kluwer, V ed., 2021

B) Circostanze aggravanti e attenuanti

SOMMARIO: VII. Nozione, funzione e classificazione delle circostanze - VIII. La distinzione tra circostanze ed elementi costitutivi del reato: rilevanza della distinzione e criteri di distinzione - IX. (*Segue*) criteri di distinzione 'forti' o 'probanti' - X. (*Segue*) criteri di distinzione 'deboli' o 'indizianti' - XI. (*Segue*) criteri di distinzione 'inutili' - XII. (*Segue*): il ricorso, in via residuale, ai classici criteri ermeneutici - XIII. (*Segue*) in particolare, la distinzione tra circostanze aggravanti ed eventi aggravatori dei c.d. reati aggravati dall'evento - XIV. La riforma incompiuta dell'istituto delle circostanze: considerazioni generali - XV. L'art. 59, c. 2: l'imputazione soggettiva delle circostanze aggravanti - XVI. L'art. 59, c. 1: l'imputazione oggettiva delle circostanze attenuanti - XVII. L'art. 59, c. 3: l'irrelevanza delle circostanze putative - XVIII. Tentativo e circostanze - XIX. Precedenti legislativi - XX. Casistica.

VII. Nozione, funzione e classificazione delle circostanze

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Le circostanze sono elementi **accidentali, accessori**, di carattere oggettivo o soggettivo, che, correlati ad un reato già perfetto nei suoi requisiti essenziali, modificano la pena per esso comminata, aggravandola o attenuandola. Esse incidono, quindi, primariamente sulla **misura della punizione**, in termini quantitativi o qualitativi: elemento caratterizzante e immancabile del reato circostanziato è, pertanto, la variazione della sanzione rispetto al reato semplice. Secondariamente, le circostanze possono anche modificare la disciplina sostanziale e processuale del reato cui accedono (determinandone, ad es., la punibilità d'ufficio, anziché a querela, o lo spostamento del giudice competente per materia, oppure ancora determinando la possibilità di procedere, in relazione al reato circostanziato ma non già a quello semplice, all'arresto in flagranza o a intercettazioni telefoniche) [BASILE (8), 1743]. Le circostanze non influiscono, invece, in alcun modo sull'esistenza del reato (di uno specifico titolo di reato), e sulla sua punibilità [MARINI (60), 19; MELCHIONDA (71), 893; SANTORO (97), 19; VALLINI, in DE FRANCESCO, in *Palazzo-Paliero Trattato*, 2; BRICOLA (12), 1051; BRICOLA (13), 359-388; CONTENTO (19), 2; MALINVERNI (56), 68; MALINVERNI (57), 190; MARINI (60), 63; PROSDOCIMI (85), 277-280; DE VERO (28), 119; per una recente

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J Rink



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Diritto penale Cadoppi, Canestrari, Manna, Papa, 2022-06-07 Il Trattato di diritto penale in 3 tomi e oltre 8 000 pagine analizza il sistema penale e tutti i vari tipi di reati e di contravvenzioni previsti dal codice penale Il Codice penale rimane il decisivo punto di riferimento sia per quanto riguarda l'ordine della trattazione sia per quanto attiene alla scelta dei contenuti I tre tomi in cui suddivisa l'opera affrontano oltre alla parte generale i delitti e le contravvenzioni contenuti all'interno del Codice e la disciplina penale degli stupefacenti e della prostituzione La materia penalistica viene affrontata secondo una visione pluralistica assicurata dal coinvolgimento di autori dalla diversa estrazione professionale accademici giudici magistrati della pubblica accusa avvocati Grande attenzione riservata al diritto giurisprudenziale sempre coniugata con il rigoroso inquadramento sistematico degli istituti Anche per questa ragione la trattazione pur seguendo in linea di massima le cadenze del codice penale ordina sovente gli istituti o le fattispecie di reato in capitoli pi ampi tesi a sottolinearne gli aspetti di sistematicità Ci non solo per rispettare le coordinate del genere trattatistico ma anche per offrire al lettore un'esperienza di fruizione pi completa efficace e contestualizzata

Non punibilità per tenuità del fatto e strategie processuali Antonio Di Tullio D'Elisiis, 2015 Medical Malpractice Legislation Carlo Maria Masieri, 2024-05-08 This book aims to analyse the legal tools that the legislatures of France Germany and Italy adopted in order to regulate medical malpractice In the mid 1970s a reform movement started in the United States where there was considerable concern about then ongoing medical malpractice crises Since the beginning of the current century France Germany and Italy have passed statutes that aim to reform medical liability rules Thus it is first interesting to assess whether any medical malpractice crises have been identified in these systems and second how these have been faced through the passing of new statutes on the continent Accordingly the first chapter explores the idea of medical malpractice crisis and its relationship with the insurance market also considering the reflections of American scholars It then reconstructs the French German and Italian legal frameworks as well as their insurance and litigation contexts reviewing and commenting on the quantitative evidence that was collected before the reforms The second chapter briefly summarises the debate on medical malpractice reforms in France Germany and Italy It then analyses the statutes that have been passed distinguishing between reforms that consolidate case law and reforms that introduce innovative solutions sometimes repealing court developed doctrines In particular the chapter examines in a comparative perspective the different options adopted in these civil law countries with regard to the rules on liability burden of proof statute of limitations and damages Moreover the chapter examines the reforms of insurance procedural and evidence law to the extent they affect medical malpractice cases The third chapter reviews and analyses the current available data related to medical malpractice litigation and insurance after the reforms adopted in France Germany and Italy in order to find out evidence of their effectiveness and efficiency It also highlights some aspects of medical malpractice law that still belong to the domain of the judiciary It finally points out which problems may be addressed by the legislatures and what

further data should be collected in the future This work may interest legal scholars healthcare providers insurers and policymakers

Polvere Gianni Cioli, 2014-12-02T00:00:00+01:00 Pur risultando marginale rispetto ai grandi dibattiti del concilio Vaticano II la revoca del divieto di sepoltura ecclesiastica a chi sceglie la cremazione stabilita dal Sant'Uffizio nel 1963 assume un alto valore simbolico La posizione della Chiesa cattolica passa infatti dalla netta condanna all'accettazione purché la scelta non sia motivata da ragioni che contrastano con le verità della fede L'opzione del cristianesimo antico per l'inumazione o la tumulazione e la reazione della Chiesa alla propaganda cremazionista fortemente sostenuta dalla massoneria a partire dalla rivoluzione francese non hanno impedito una riflessione che si deposita pur con tutti i distinguo nel nuovo Rito delle esequie nel Codice di diritto canonico nel Catechismo e nei documenti ufficiali delle Conferenze episcopali di molti Paesi del mondo Nell'ultimo mezzo secolo la riflessione si è dunque spostata sulla comprensione delle motivazioni religiose estetiche affettive o economiche della cremazione ma anche sugli effetti personali e collettivi di prassi che prevedono la dispersione o la conservazione privata delle ceneri Il desiderio di garantire il distacco o di assicurare il legame con i defunti rischia infatti di privatizzarne la memoria o al contrario di amplificarne il ricordo rinunciando ad affrontare la morte in modo comunitario e relegandola nel cerchio talvolta soffocante degli affetti privati

Infedeltà patrimoniale e gruppi di società
Carlo Benussi, 2009

Riforma penale Cartabia: le novità del decreto correttivo AA.VV., 2024-10-11 L'ebook analizza in chiave critica e approfondita tutte le novità introdotte dal cd correttivo Cartabia D Lgs 19 marzo 2024 n 31 e i risvolti applicativi della normativa novellata Il decreto ha introdotto modifiche ed integrazioni al D Lgs n 150 2022 attuativo della cd riforma Cartabia al fine di adeguare maggiormente gli istituti interessati dalla riforma ai principi e ai criteri direttivi della legge delega L n 134 20213 anche attraverso l'appianamento di difetti di coordinamento e di favorire la semplificazione di alcuni meccanismi procedurali e processuali Non mancano interventi di peso come quelli concernenti l'udienza di sentencing di cui all'art 545 bis c p p e la riforma dei meccanismi di sblocco della cd stasi al termine delle indagini preliminari Composto di undici articoli che introducono modifiche al codice penale al codice di procedura penale e ad alcune leggi complementari e contengono norme transitorie il correttivo interviene in tema di pene sostitutive delle pene detentive brevi i correttivi apportati seguono tre linee di intervento che interessano la fase di accesso alle pene sostitutive meccanismo di sentencing disciplina del giudizio di appello e concordato con rinuncia ai motivi di appello e la revoca del beneficio per condanne sopravvenute indagini preliminari i profili di novità si articolano su più piani che si intersecano nel rinnovato sbilanciamento del processo nella fase delle indagini contribuendo a realizzare quello che è stato definito il processo a trazione anteriore processo in assenza si tratta di integrazioni oggettivamente necessarie per garantire una maggior coerenza sistematica della normativa e porre rimedio ad una serie di difficoltà emerse nella prassi procedimenti speciali accanto a modifiche di mero coordinamento in tema di giudizio immediato rito abbreviato e procedimento per decreto direttissimo si collocano modifiche più incisive in punto di rito abbreviato e procedimento per decreto presentazione dell'atto di

impugnazione per risolvere criticit pratiche l art 10 D Lgs n 31 2024 dispone che fino a quando non sar obbligatorio il deposito telematico degli atti il procuratore generale presso la corte di appello pu depositare l atto di impugnazione nella cancelleria della corte di appello nella cui circoscrizione ha sede il giudice che ha emesso il provvedimento impugnato giustizia riparativa alcuni ritocchi alle previsioni del codice di rito nel segno della complementarit con la giustizia penale difetti formali e di coordinamento il decreto semplifica e di risolve alcuni problemi di coordinamento emersi in fase di prima applicazione della riforma Cartabia tenendo conto anche delle segnalazioni provenienti dal mondo accademico dall avvocatura e dalla magistratura Gli articoli sono tratti dalle riviste Giurisprudenza italiana e Diritto penale e processo

Gli animali domestici nel condominio dopo la riforma Marianna Sala (omonimi non identificati.),2013 **Codice penale commentato** Italia,1999 **Il processo mediatico** Guido Stampanoni Bassi,Andrea Camaiora,2022-10-18 La giustizia penale ormai diventata spettacolo se non vero e proprio show e non esiste vicenda giudiziaria di una certa rilevanza che non trovi nelle pagine dei giornali e nei salotti televisivi un giudizio mediatico anticipato rispetto a quello delle aule di giustizia In un sistema nel quale l audience a farla da padrona e l interesse dell informazione spesso incentrato sulla ricerca degli ascolti dei lettori del pubblico e sulla sola fase iniziale di ciascun caso giudiziario si pone con sempre maggior attenzione il problema di delineare i rapporti tra diritto di cronaca e rispetto della presunzione di non colpevolezza Partendo da queste premesse il volume affronta con approccio multidisciplinare alcune delle pi problematiche questioni del delicato rapporto tra giustizia penale e informazione dalla tutela della riservatezza alla pubblicazione degli atti processuali dai doveri del giornalista al ruolo dei mass media dai possibili rimedi alle sanzioni nei confronti degli editori A firmare i contributi sono giuristi avvocati e giornalisti Ovvero proprio i protagonisti del processo mediatico **Codice penale commentato** ,2018 *Codice penale commentato* ,2016 **Codice penale commentato con la giurisprudenza** L. Alibrandi,2023 *Codice penale commentato. Addenda* Emilio Dolcini,Giorgio Marinucci,2000 *Codice penale. Commentato con la dottrina ed annotato con la giurisprudenza* Pietro Dubolino,2004 *Codice penale. Commentato con dottrina e giurisprudenza* Alberto Cadoppi,Stefano Canestrari,Paolo Veneziani (giurista.),2011 **I Codice penale** Italie,2002 Il codice penale Luigi Alibrandi,2004 **Codice penale commentato con la giurisprudenza** Luigi Alibrandi,2013 Codice penale commentato ,1999 **Codice penale** Italia,2011

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