



## Editorial

In mid-December 2023, a political agreement was announced between the European Parliament and the Council of the Union on the decisive elements for a pact on migration and asylum – which aims to manage the flow of migrants in the Member States of the European Union (EU) in a predictable and orderly manner. Although not without criticism from non-governmental organisations, the agreement reached under the Spanish Presidency of the Council of the Union (apparently) breaks the deadlock on a common migration management system in the EU. Instead of the unilateral and uncoordinated measures adopted by Member States over the last decade, the EU needs sustainable, long-term solutions to deal with such flows effectively and fairly. As the elections in the various Member States have shown, either the EU takes on the problem of migration head-on – both in terms of the origin of migrants and their integration into the European area – or the very survival of European integration will be politically jeopardised.

Against this background, the first article in this edition of UNIO is by Paola Di Nunzio and is entitled “*The Italy-Libya Memorandum: stripping away the right of asylum in the Italian legal system*”. Indeed, Libya is the main point of departure for migrants and refugees trying to reach Italian shores. This paper argues that, with the Memorandum, Italy is adopting a “pullbacks” strategy, which essentially translates into the practice of collective expulsion and refoulment. In fact, the Memorandum externalises the border across the Mediterranean and empties the right to asylum of its meaning, since it is structured in such a way as to make it impossible for people to reach European territory. Nevertheless, the prohibition of such practices is an indispensable condition to guarantee the effectiveness of the protection of the right to asylum, as safeguarded by international, European and Italian norms.

As a follow-up, this issue of UNIO features several texts on the digital and ecological transitions we are undergoing in the EU. With the proposed regulation of artificial intelligence (AI) in mind, Inês Neves’ article is entitled “*The freedom to conduct a business as a driver for AI governance*”. The author argues that the European legislator cannot neglect the freedom to conduct a business – a fundamental right enshrined in Article 16 of the Charter of Fundamental Rights of the European Union (CFREU). It cannot be regarded as a diminished or functionalised right, nor are companies necessarily a threat to human rights or an obstacle to the pursuit of human-centred AI governance. The European legislator seeks to provide legal

certainty, ensure proportionality and address the special condition of small and medium-sized enterprises and start-ups. However, the rigidity of some provisions and the approach to risk, together with the uncertainty that characterises the AI regulatory environment, leave room for improvement and new escape hatches, with future application being of particular importance.

From another perspective on fundamental rights, with particular emphasis on the risks associated with the use of AI, Iolanda Rodrigues Brito presents a paper entitled «*European data market: the rise of individuals to the “Mount Olympus” of artificial intelligence or the “oiling” of the human being?*». This article aims to contribute to the debate on the long-term consequences arising from the creation of a European data market, considering the limitless potential of AI. Encouraging mass data production to develop AI could compromise the effective protection of personal data, the preservation of European liberal democracies and human rights, the promotion of innovation and even European economic prosperity. Bearing in mind the EU’s “spiritual and moral heritage”, enshrined in the Preamble of the CFREU, the author argues that it is essential to ensure that we are truly treading a path that will lead us to a democratic future.

Next, the text by Cecília Bojarski Pires aims to identify the primary forms of citizen participation within the European energy regulatory framework, focusing on decentralised energy production and its intersection with the right to the city and environmental, climate and energy-related concerns. With the article entitled «*“I participate. You participate. He participates. We participate. You participate. Do they profit?” Brief reflections on the forms of citizen participation according to the Directive (EU) 2019/944 on the Internal Market of Electricity and the Directive (EU) 2018/2001 on Renewable Energy Sources*», the author addresses the emergence of the right to the city, tracing its development as a category within urban sociology until its legal recognition as a human right, which guarantees the fruition of urban rights and the promotion of democratic participation in the construction of the urban model.

The following text is by Beltrán Puentes Cociña and is entitled “*The circular economy strategy as a way of designing more durable, repairable, and reusable products*”. The author explains that the EU’s strategy for the circular economy aims to change the current linear model of production and consumption, which involves the misuse of many resources and the production of huge amounts of waste. To this end, it is necessary to amend legislation on the ecodesign of products and introduce durability, repairability and reusability criteria. This article analyses the origins and evolution of ecodesign legislation, as well as the challenges that the circular economy poses to this legislation, pointing out the main limits and regulatory changes that need to be considered.

This is followed by a text by Ana Melro entitled “*European cybercultures: between the mix and idiosyncrasy. The role of interconstitutionality*”. The author explains that with the development and social implementation of Information and Communication Technologies, cyberculture has come to stand alongside and complement culture. This means new rules, regulations, behaviours, attitudes, lifestyles, and traditions. Cyberspace is a privileged environment for the creation, consumption and sharing of cyberculture, a space of collective intelligence. The author advocates that the dialectic of interconstitutionality (this is, the process whereby constitutions influence and reflect one another, and where the EU project sits in between) contributes to enhancing the different European cybercultures, which do not cancel each other out. On the contrary, they elevate each other.

Following on from the last issue of UNIO, the last text of this number presents some results from research coordinated by Alexandre Veronese (University of Brasília) on “*The influence of European Union personal data protection standards in Latin America from the perspective of social actors and Latin American authorities*”. The initial segment scrutinises excerpts from field interviews, shedding light on the influence of the EU and its legal provisions in shaping the national legal frameworks of the countries researched, including Argentina, Brazil, Colombia, Chile, Costa Rica, Mexico, Panama, Peru, and Uruguay. The second part shifts the focus to a post-General Data Protection Regulation era, exploring the heightened awareness surrounding adequacy processes crucial to securing favourable decisions from the European Commission for international data transfers. Concluding the analysis, the third part examines selected excerpts from interviews on the relationship between the abovementioned countries and the Council of Europe Convention 108+ and the Budapest Convention. In summary, the findings of the field research underscore that the influence of EU law significantly outweighs that of the standards set out in the Council of Europe treaties. Furthermore, the interviews reveal a palpable recognition of the imperative to draw insights from diverse examples of global regulation, hinting at the potential for unified global regulation.

Editorial Team