

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

Codice Penale Commentato Pdf

Emilio Dolcini, Giorgio Marinucci



Codice Penale Commentato Pdf:

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

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 sistematicit Ci non solo per rispettare le coordinate del genere trattatistico ma anche per offrire al lettore un

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 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 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
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