Record Nr. UNINA9910827653303321 **Titolo** Comparative law in legislative drafting: the increasing importance of dialogue amongst parliaments / / Nicola Lupo & Lucia Scaffardi, (eds) Pubbl/distr/stampa Hague, Netherlands: .: Eleven International Publishing, . 2014 ©2014 **ISBN** 94-6274-013-5 Descrizione fisica 1 online resource (316 p.) Disciplina 328.373 Soggetti Bill drafting Lingua di pubblicazione Inglese **Formato** Materiale a stampa Livello bibliografico Monografia Note generali Description based upon print version of record. Nota di contenuto COVER; TITLE PAGE; TABLE OF CONTENTS; LIST OF CONTRIBUTORS; 1 INTRODUCTION. THE USES OF COMPARATIVE LAW IN LEGISLATIVE DRAFTING; 1.1 INTRODUCTION: 'DIALOGUE' AMONG JUDGES AND AMONG LEGISLATURES; 1.2 THE ANCIENT ORIGINS OF THE PHENOMENON - THE RECENT ROOTS OF THE RESEARCH; 1.3 THE LEGAL SYSTEM ANALYSED: A CHOICE OF GEOGRAPHY AND METHOD: 1.4 A LONG STORY OF METAPHORS AND THE DEBATE WITHIN THE RESEARCH GROUP; 1.5 SOME (PROVISIONAL) RESULTS: THREE CATEGORIES OF LEGAL SYSTEMS, ACCORDING TO THEIR USE OF FOREIGN LAW; 2 LEGISLATION AS TRANSPLANTATION; 2.1 INTRODUCTION; 2.2 TRANSPLANTS IN TRANSITIONS 2.3 TRANSPLANTATION AND STANDARD LAWMAKING2.4 ISRAEL AS A CASE STUDY: A MIXED AND MULTILAYERED SYSTEM; 2.5 MOVING FROM 'IF' TO 'HOW'; PART I: EUROPEAN EXPERIENCES; 3 THE INFLUENCE OF COMPARATIVE LAW ON THE PORTUGUESE PARLIAMENT AND THE LEGISLATIVE PROCESS; 3.1 INTRODUCTION; 3.2 THE STRUCTURE OF THE PORTUGUESE PARLIAMENT IN THE COUNTRY'S EVOLVING GOVERNMENT SYSTEM: 3.3 THE INTERNAL SUBDIVISIONS AND THE FUNCTIONING OF THE PORTUGUESE PARLIAMENT: AN OUTLINE; 3.4 THE ORDINARY LEGISLATIVE PROCEDURE; 3.5 CONCLUSION; 4 'FOREIGN INFLUENCE' IN EU LAWMAKING: THE CASE OF THE EUROPEAN

4.1 INTRODUCTION: WHAT IS MEANT BY 'FOREIGN INFLUENCE' IN THE

PARLIAMENT*

EUROPEAN UNION?4.2 NEITHER A STATE NOR AN INTERNATIONAL ORGANIZATION - THE ONGOING CONSTRUCTION OF THE EU AND THE MAIN FEATURES OF ITS 'CONSTITUTIONAL' ARCHITECTURE; 4.3 THE 'ASSEMBLY FOR EUROPE': A BRIEF EXCURSUS ON THE RULES AND THE FUNCTIONING OF THE EP; 4.4 FOREIGN INFLUENCES IN EU LAW DESIGN: THE MARGINALIZATION OF THE EP; 4.5 FOREIGN INFLUENCES IN EU LAWMAKING WITHIN THE EP; 4.6 CASE STUDIES OF 'FOREIGN' INFLUENCE OF EU LAWMAKING THROUGH THE ACTIVITY OF THE EP; 4.7 CONCLUSION

5 THE EU-DRIVEN FOREIGN INFLUENCES ON LEGISLATION IN ROMANIA5.1 INTRODUCTION; 5.2 ROMANIA'S PATH TOWARDS THE EU; 5.3 POLITICAL CONDITIONALITY CONCERNING PARLIAMENT'S FUNCTIONING; 5.4 THE ROMANIAN PARLIAMENT: MONITORING ACTIVITY OF INTERNATIONAL LEGISLATION; 5.5 THE LEGISLATIVE ACTIVITY IN ROMANIA: A FORCED DIALOGUE WITH INTERNATIONAL SOURCES?: 5.6 EU-DRIVEN FOREIGN INFLUENCE ON LEGISLATION AND OTHER REFERENCES TO FOREIGN LAWS; 5.7 OTHER 'SPONTANEOUS' REFERENCES TO FOREIGN LAWS: 6 LEGAL TRANSPLANTS IN THE SPANISH PARLIAMENTARY ARCHITECTURE AND LEGISLATIVE DECISION-MAKING 6.1 INTRODUCTION - FOREIGN INFLUENCES IN THE SPANISH CONSTITUTIONAL AND LEGISLATIVE TRADITION6.2 LEGAL TRANSPLANTS IN THE SPANISH PARLIAMENTARY ARCHITECTURE: 6.3 LEGAL TRANSPLANTS IN THE SPANISH LEGISLATION; 6.4 CONCLUSIONS - AN OVERALL ASSESSMENT OF THE IMPACT OF FOREIGN INFLUENCES ON THE SPANISH LEGAL ORDER AND LEGISLATION: 7 FOREIGN INFLUENCES ON (THE PROCEDURE AND CONTENT OF) THE ITALIAN LEGISLATIVE PROCESS; 7.1 FOREIGN MODELS AND EXPERIENCES IN THE ITALIAN LEGISLATIVE PROCESS; 7.2 ELECTORAL REFORMS AND COMPARATIVE LAW IN THE ITALIAN PARLIAMENT 8 THE USE OF COMPARATIVE LAW IN THE LEGISLATIVE PROCESS AT WESTMINSTER

Sommario/riassunto

This volume examines whether contemporary parliaments use foreign and comparative law in the legislative process. The research reports covered in the book apply the same methodological approach, focusing on the information apparatus available to the legislators, and on the rules and practices that regulate the drafting and approval of bills. Subsequently, it examines several examples of recent legislation in which foreign law has been taken into consideration: in an explicit or implicit way, in order to be accepted or refused, according to a mere instrumental aim or following a rigorous compar