Foreword

Courts are sometimes portrayed as an (un)necessary evil. However, in several situations we can see that their contributions increase the respect for certain human values. By their very nature, courts have to decide and decide with finality – including in extremely important and sensitive matters. That being said, courts are not abstract and inhuman. They are composed of human beings who, in spite of the fact that these beings (judges) possess (or at least should possess) special skills and personal qualities, remain mortal subjects. And *errare humanum est*.

With this knowledge, modern society has established a complicated system of jurisdiction in which it entrusts the judiciary to have the final word. This is the way to avoid alternative ways of resolving conflicts in a less appropriate, and possibly less violent, manner. From the perspective of those who criticize judgments (and there are always such persons), the rule of law guarantees, if not always justice, a peaceful means of settling disagreements which, unfortunately, appear (too) often. The courts, being aware of the reality that not everybody will benefit from a judicial decision, must in any case try to apply and interpret legal rules to the best of their knowledge and ability. This, in principle, is no easy task.

Therefore, any suggestions which help to improve the quality of judicial activity should not only be allowed, but welcomed. As a long-serving Judge of the Court of Justice of the European Union, I find all the comments and suggestions concerning the work of our own court and other courts extremely useful. They should not live in an ‘ivory tower’, but rather they should be sensitive to appreciation and criticism which in turn provokes courts to rethink their solutions. Therefore, the legal doctrine remarkably contributes to the fulfilment of the judiciary’s noble mission.

That is why I am privileged to have the opportunity to read the book on *Courts, Privacy and Data Protection in the Digital Environment*, edited by Maja Brkan and Evangelia Psychogiopoulou, which contains several chapters related to an analysis of the case law of the two European Courts and numerous national jurisdictions.

Courts are not ‘masters’ of their agenda. It is parties or, in some procedures, national courts that decide whether there is a need to take a

case to a court. And there are numerous examples where the courts have been faced with the challenge of interpreting existing rules, which have often been adopted in the pre-digital era.

The present book demonstrates that such situations have occurred in the past and are still at stake. The best example (with which I am quite familiar) is the applicability of some pieces of the European legislation to the actual status of technical development. The interpretation of such rules, such as Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, is quite a challenge for every court, especially when also taking into account the development of the general protection of human rights (the EU Charter on Fundamental Rights and the progressive case law of the European Court of Human Rights).

I am convinced that the rich and exhaustive analysis of the case law of European and national courts will be accepted with pleasure and respected not only by persons directly involved in litigation as parties and lawyers, but also in academic circles, and, if I may take the risk of speaking for my colleagues at different levels of jurisdiction, by judges.

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