

DIRITTO DEL TURISMO

SISTEMA DELLE FONTI DEL DIRITTO

Si indica *l'insieme delle regole destinate ad organizzare le fonti del diritto, gli atti e i fatti idonei a produrre norme giuridiche*. 2 tipologie di fonti:

1. **Atto** → norme giuridiche **scritte** emanate da organi a cui è stato attribuito il relativo potere normativo
2. **Fatto** → norme giuridiche **non scritte** di natura e di origine consuetudinaria

Una norma giuridica è una regola che serve per disciplinare e regolare la convivenza all'interno di una comunità, è una regola che ha delle caratteristiche precise che la distingue dalle norme morali:

- **Astrattezza** => una norma che non disciplina una fattispecie specifica bensì una fattispecie astratta (es. il codice penale disciplina qualsiasi atto di omicidio, qualsiasi fattispecie omicidiale)
- **Generalità** => una norma che non si rivolge ad un individuo specifico ma si applica a tutti i soggetti che si trovano in una specifica situazione
- **Positività** => la norma è posta da una autorità pubblica
- **Novatività** => la norma giuridica innova l'ordinamento, introduce una disposizione che fino a quel momento non era prevista
- **Coazione** => se la norma contiene un precetto, quindi un divieto o un comando, quella norma è assistita da una sanzione

Le fonti atto e fatto vengono chiamate **fonti di produzione del diritto** (definite come tutti quegli strumenti predisposti dall'ordinamento per creare, modificare, estinguere norme giuridiche), distinte dalle **fonti di cognizione del diritto** le quali sono quei documenti che forniscono la conoscibilità legale della norma giuridica (es. bollettino ufficiale delle regioni, gazzetta ufficiale della repubblica, ...). Esistono poi le **fonti sulla produzione del diritto**, ci si riferisce a norme che disciplinano i modi di produzione del diritto quindi i soggetti, le procedure che portano all'adozione di quella norma (es. la legge ordinaria è una fonte di produzione del diritto, è una fonte atto; l'art.72 della costituzione è una fonte di produzione sul diritto, ovvero quella norma che disciplina i modi, le procedure e soggetti che adottano quella fonte del diritto).

In sintesi: la fonte di diritto è la legge ordinaria, la fonte di cognizione è la gazzetta ufficiale della repubblica, la fonte sulla produzione del diritto è quella norma di rango costituzionale che definisce modi, forme, soggetti e procedure di produzione del diritto, attraverso quella fonte di produzione che è la legge.

Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele

**Ettore Battelli, Barbara Cortese, Andrea
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Table of Contents Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele

1. Understanding the eBook Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - The Rise of Digital Reading Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Advantages of eBooks Over Traditional Books
2. Identifying Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - User-Friendly Interface
4. Exploring eBook Recommendations from Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Personalized Recommendations
 - Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele User Reviews and Ratings
 - Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele and Bestseller Lists
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- Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele eBook Subscription Services
- Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele Budget-Friendly Options
- 6. Navigating Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele eBook Formats
 - ePub, PDF, MOBI, and More
 - Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele Compatibility with Devices
 - Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Highlighting and Note-Taking Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Interactive Elements Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
- 8. Staying Engaged with Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
- 9. Balancing eBooks and Physical Books Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Setting Reading Goals Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Fact-Checking eBook Content of Diritto Del Turismo E Tutele Diritto Del Turismo E Tutele
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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