CONTENTS

LIST OF ABBREVIATIONS XV

Symposium: THE FUTURE OF THE ECHR SYSTEM

PRESENTATION OF THE SYMPOSIUM 3
Giuseppe Cataldi

The ECHR System and International Law

THE NOTION OF “JURISDICTION” IN ARTICLE 1: FUTURE SCENARIOS FOR THE EXTRA-TERRITORIAL APPLICATION OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS 11
Raffaella Nigro

SUBSTANTIVE AND PROCEDURAL ISSUES RAISED BY THE ACCESSION OF THE EU TO THE ECHR 31
Ottavio Quirico

THE ECHR AND THE IMMUNITIES PROVIDED BY INTERNATIONAL LAW 55
Beatrice I. Bonafè

Comments

THE NOTION OF “CONTRACTING PARTIES’ JURISDICTION” UNDER ARTICLE 1 OF THE ECHR: SOME MARGINAL REMARKS ON NIGRO’S PAPER 75
Pasquale De Sena

COMMENTS ON THE ACCESSION OF THE EUROPEAN UNION TO THE ECHR 83
Benedetto Conforti

EU ACCESSION TO THE ECHR: A PARLIAMENTARY PERSPECTIVE 87
Emilio De Capitani
ACCESS TO A COURT AND JURISDICTIONAL IMMUNITIES OF STATES: WHAT SCOPE FOR THE BALANCING OF INTERESTS TEST?  
Marco Gestri  

General Aspects of the Functioning of the ECHR System  

THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND THE RULE OF PRIOR EXHAUSTION OF DOMESTIC REMEDIES IN INTERNATIONAL LAW  
Antonio Bultrini  

MANIFEST ILL-FOUNDEDNESS AND ABSENCE OF A SIGNIFICANT DISADVANTAGE AS CRITERIA OF INADMISSIBILITY FOR THE INDIVIDUAL APPLICATION TO THE COURT  
Simona Granata  

THE APPLICATION OF THE ECHR IN THE DOMESTIC SYSTEMS  
Andrea Caligiuri and Nicola Napoletano  

Comments  

REFLECTIONS ON THE RULE OF PRIOR EXHAUSTION OF DOMESTIC REMEDIES IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS  
Guido Raimondi  

THE LINK BETWEEN MANIFEST ILL-FOUNDEDNESS AND ABSENCE OF A SIGNIFICANT DISADVANTAGE AS INADMISSIBILITY CRITERIA FOR INDIVIDUAL APPLICATIONS  
Françoise Tulkens  

Pasquale Pirrone  

General Conclusion on the Symposium  

CONCLUDING REMARKS ON THE FUTURE OF THE STRASBOURG COURT  
Jean-Paul Costa
NOTES AND COMMENTS

THE EVOLVING NOTION OF PERSECUTION IN THE LAW AND JURISPRUDENCE OF INTERNATIONAL CRIMINAL TRIBUNALS
Ottavio Quirico

TIED DEVELOPMENT AID: A STUDY ON SOME MAJOR LEGAL ISSUES
Giuseppe Cataldi and Gianluca Serra

INTERNATIONAL MONETARY FUND, WORLD BANK AND RESPECT FOR HUMAN RIGHTS: A CRITICAL POINT OF VIEW
Pasquale De Sena

THE DISMANTLING OF END-OF-LIFE SHIPS: THE HONG KONG CONVENTION FOR THE SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS
Valentina Rossi

THE ACTIVITY OF THE INTERNATIONAL COURT OF JUSTICE IN 2010
Paolo Palchetti

Tullio Treves

INTERNATIONAL CRIMINAL JUSTICE (2010)
Carlo Focarelli

THE ARBITRAL PRACTICE OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID) IN 2010
Eduardo Savarese

ITALIAN PRACTICE RELATING TO INTERNATIONAL LAW
Classification Scheme

JUDICIAL DECISIONS
(edited by Giuseppe Cataldi and Massimo Iovane)

V. IMMUNITIES
Criminal jurisdiction of the receiving State over an extraordinary rendition committed on its territory by diplomatic, consular and military agents of the sending

*Tribunale di Milano (Sez. IV penale)*, 1 February 2010, No. 12428

*Public Prosecutor v. Adler and others* (the “*Abu Omar* case”)

VII. LAW OF THE SEA


*Corte di Cassazione (Sez. I penale)*, 8 September 2010, No. 32960

Re: *Kircaoglu Mehmet and Sanaga Mehemet*

XI. TREATMENT OF ALIENS AND NATIONALITY


*Corte di Cassazione (Sez. VI penale)*, 28 April 2010, No. 20514

*Arman Ahemed El Hissini Helmy, Maouy Lofti Ben Sadok, Ben Yahia Mouldi Ben Rachid, Hekiri Hichem Nem Mohamed, Kneni Kamel, Sahraoui Nessim Ben Romdhane v. Corte d’Assise d’Appello di Milano*

XII. HUMAN RIGHTS

Article 14 of the European Convention on Human Rights, in conjunction with Article 1 of Protocol No. 1 – Immigrants’ right to equality of treatment in the field of social assistance – Different treatment on the basis of holding residence permits for long-term residents – Access to essential social benefits as a fundamental human right

*Corte Costituzionale*, 28 May 2010, No. 187

*O.M. v. Ministry of Economy and Finance et al.*

XIII. INTERNATIONAL RESPONSIBILITY

of War on Land of 18 October 1907 – Convention relative to the Treatment of
Prisoners of War of 27 July 1929
Tribunale di Torino, 19 May 2010
De Guglielmi v. Germany

DIPLOMATIC AND PARLIAMENTARY PRACTICE
(edited by Pietro Gargiulo and Giuseppe Nesi)

II. INTERNATIONAL CUSTOM, LAW OF TREATIES AND OTHER SOURCES
OF INTERNATIONAL LAW
1. RESERVATIONS TO TREATIES
2. EFFECTS OF ARMED CONFLICTS ON TREATIES

XII. HUMAN RIGHTS
1. PROMOTION OF DEMOCRACY AND RESPECT FOR FUNDAMENTAL RIGHTS
   A. The Italian Government’s Reply to the United Nations Human Rights
      Council in the Context of the Universal Periodic Review
   B. The Reaction of the Italian Government to the Capital Sentence for the
      Former Minister of Foreign Affairs of Iraq, Mr. Tareq Aziz
   C. The Situation of Human Rights and Self-Determination in Western
      Sahara
   D. The Principles of Humanitarian Assistance and the Protection of
      Minorities in Pakistan
2. PROTECTION OF PERSONS IN THE EVENT OF DISASTERS

XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-
ECONOMIC MATTERS
1. JUDICIAL CO-OPERATION IN CRIMINAL MATTERS

XVI. INTERNATIONAL ORGANIZATIONS
1. UNITED NATIONS
   A. United Nations Reform
   B. Promotion and Strengthening of the Rule of Law
   C. Protection of Civilians in Armed Conflict
2. THE EUROPEAN UNION
   A. Possible Consequences for the Legal System of the European Union
      Deriving from Its Participation in the Convention for the Protection of
      Human Rights and Fundamental Freedoms

XVIII. USE OF FORCE AND PEACE-KEEPING
1. THE ROLE OF THE ITALIAN CONTINGENT IN AFGHANISTAN
2. THE QUALIFICATION OF THE CONFLICT WITH IRAQ DURING THE “FIRST
   GULF WAR” 1990-1991

XIX. ARMED CONFLICT, NEUTRALITY, AND DISARMAMENT
1. WEAPONS OF MASS DESTRUCTION
AGREEMENTS TO WHICH ITALY IS A PARTY AND AGREEMENTS AND UNDERSTANDINGS TO WHICH ITALIAN REGIONS AND AUTONOMOUS PROVINCES ARE PARTIES
(edited by Marina Mancini)

I

AGREEMENTS TO WHICH ITALY IS A PARTY

A) AGREEMENTS SIGNED BY ITALY, PUBLISHED IN THE GAZZETTA UFFICIALE IN 2010

III. STATES AND OTHER INTERNATIONAL ENTITIES 464

IV. DIPLOMATIC AND CONSULAR RELATIONS 464

VI. TERRITORY 464

VII. LAW OF THE SEA 465

IX. CULTURAL HERITAGE 468

XII. HUMAN RIGHTS 468

XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS
1. LEGAL AND JUDICIAL CO-OPERATION 470
2. MILITARY AND SECURITY MATTERS 471
3. CULTURAL, EDUCATIONAL, SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION 472
4. TECHNICAL CO-OPERATION 472
5. SOCIAL AND HEALTH MATTERS 472
6. TOURISM 473
7. TRANSPORT 473
8. NEIGHBOURLY RELATIONS 473

XV. INTERNATIONAL ECONOMIC LAW
1. GENERAL ECONOMIC AND FINANCIAL CO-OPERATION 474
2. TAXATION 474
3. INVESTMENT 475
4. ECONOMIC DEVELOPMENT AND DEVELOPMENT CO-OPERATION 475
5. DEBT CONSOLIDATION AND CANCELLATION TREATIES 477

XVI. INTERNATIONAL ORGANIZATIONS
1. HEADQUARTERS AGREEMENTS AND LEGAL STATUS 477
2. EUROPEAN UNION 477
3. OTHER INTERNATIONAL ORGANIZATIONS 478

XVIII. USE OF FORCE AND PEACE-KEEPING 479
B) AGREEMENTS SIGNED BY ITALY, PUBLISHED BEFORE 2010, THE ENTRY INTO FORCE OF WHICH WAS ANNOUNCED IN THE *GAZZETTA UFFICIALE* IN 2010

VI. TERRITORY

IX. CULTURAL HERITAGE

XII. HUMAN RIGHTS

XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS
   1. LEGAL AND JUDICIAL CO-OPERATION
   2. CULTURAL, EDUCATIONAL, SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION
   3. TOURISM

XV. INTERNATIONAL ECONOMIC LAW
   1. TAXATION
   2. INVESTMENT

XVI. INTERNATIONAL ORGANIZATIONS
   1. EUROPEAN UNION
   2. OTHER INTERNATIONAL ORGANIZATIONS

XVIII. USE OF FORCE AND PEACE-KEEPING

XIX. ARMED CONFLICT, NEUTRALITY, AND DISARMAMENT

II AGREEMENTS AND UNDERSTANDINGS TO WHICH ITALIAN REGIONS AND AUTONOMOUS PROVINCES ARE PARTIES

A) AGREEMENTS SIGNED BY ITALIAN REGIONS AND AUTONOMOUS PROVINCES IN 2010

AUTONOMOUS PROVINCE OF TRENTO
BASILICATA
FRIULI-VENEZIA GIULIA
LOMBARDIA

B) UNDERSTANDINGS SIGNED BY ITALIAN REGIONS AND AUTONOMOUS PROVINCES IN 2010

ABRUZZO
AUTONOMOUS PROVINCE OF BOLZANO
AUTONOMOUS PROVINCE OF TRENTO
XIV CONTENTS

LOMBARDIA 489
MARCHE 490
PUGLIA 490
VENETO 491

LEGISLATION
(edited by Pia Acconci)

V. IMMUNITIES 493
XI. TREATMENT OF ALIENS AND NATIONALITY 494
XV. INTERNATIONAL ECONOMIC LAW 497
XVI. INTERNATIONAL ORGANIZATIONS 498
XVIII. USE OF FORCE AND PEACE-KEEPING 498

BIBLIOGRAPHIES

ITALIAN BIBLIOGRAPHICAL INDEX OF INTERNATIONAL LAW 2010
(edited by Giulio Bartolini and Alessandro Chechi) 503

REVIEW OF BOOKS 529


BOOKS RECEIVED 553

INDEX 557