

CONTENTS

LIST OF ABBREVIATIONS	XIII
-----------------------	------

Symposium

SANCTIONS AND RESTRICTIVE MEASURES IN INTERNATIONAL LAW

AUTONOMOUS AND COLLECTIVE SANCTIONS IN THE INTERNATIONAL LEGAL ORDER <i>Nigel D. White</i>	3
---	---

DEFINING ELEMENTS AND EMERGING LEGAL ISSUES OF EU “SANCTIONS” <i>Leonardo Borlini and Stefano Silingardi</i>	33
---	----

NATIONAL MARGIN OF APPRECIATION AS A STANDARD OF REVIEW FOR ECONOMIC SANCTIONS: IN SEARCH OF THE GOLDEN FLEECE? <i>Viktoriia Lapa</i>	53
--	----

THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE AND THE SANCTIONS AGAINST THE RUSSIAN FEDERATION IN RESPONSE TO THE CRISIS IN UKRAINE <i>Antonino Ali</i>	77
--	----

ITALIAN PRACTICE IN THE IMPLEMENTATION OF INTERNATIONAL TARGETED SANCTIONS: ENHANCED PROTECTION OR ADDITIONAL COMPLEXITIES? <i>Elena Carpanelli</i>	93
--	----

A CRITICAL OVERVIEW OF THE UNITED NATIONS ARCHITECTURE ON CHILDREN AND ARMED CONFLICT: WHAT ROLE FOR SANCTIONS? <i>Francesca Capone</i>	115
--	-----

Focus

THE ILC’S WORK ON THE IDENTIFICATION OF CUSTOMARY INTERNATIONAL LAW

THOUGHTS ON DOMESTIC ADJUDICATION AND THE IDENTIFICATION AND FORMATION OF CUSTOMARY INTERNATIONAL LAW <i>Cameron Miles</i>	133
---	-----

THE STANDARDS FOR THE IDENTIFICATION OF EXCEPTIONS TO CUSTOMARY LAW <i>Mariangela La Manna</i>	151
---	-----

REMARKS ON THE ILC WORK ON THE IDENTIFICATION OF CUSTOMARY LAW AND HUMAN RIGHTS: CURBING “DROIT DE L’HOMMISME”? <i>Ludovica Chiussi</i>	163
THE PERSISTENT OBJECTOR RULE IN THE WORK OF THE INTERNATIONAL LAW COMMISSION ON THE IDENTIFICATION OF CUSTOMARY INTERNATIONAL LAW <i>James A. Green</i>	175
 NOTES AND COMMENTS	
SECESSION REVISITED: GENERAL FRAMEWORK AND LESSONS FROM THE REFERENDA IN CATALONIA AND KURDISTAN <i>Enrico Milano</i>	191
THE TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS: A PROMISE, A THREAT OR A FLOP? <i>Marco Pedrazzi</i>	215
THE EU “CONFLICT MINERALS REGULATION”: POTENTIALITIES AND LIMITS IN THE LIGHT OF THE INTERNATIONAL STANDARDS ON RESPONSIBLE SOURCING <i>Valentina Grado</i>	235
ITALY’S NEW MIGRATION CONTROL POLICY: STEMMING THE FLOW OF MIGRANTS FROM LIBYA WITHOUT REGARD FOR THEIR HUMAN RIGHTS <i>Marina Mancini</i>	259
 PRACTICE OF INTERNATIONAL COURTS AND TRIBUNALS	
THE JUDICIAL ACTIVITY OF THE INTERNATIONAL COURT OF JUSTICE IN 2017 <i>Serena Forlati</i>	285
THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER LAW OF THE SEA JURISDICTIONS (2017) <i>Tullio Treves</i>	313
INTERNATIONAL CRIMINAL JUSTICE (2017) <i>Raffaella Nigro</i>	331
THE WTO IN 2017: SYSTEMIC DEVELOPMENTS, DISPUTES AND REVIEW OF THE APPELLATE BODY’S REPORTS edited by <i>Giorgio Sacerdoti</i>	353
INVESTMENT ARBITRATION IN 2017: TOWARDS ADULTHOOD? <i>Giovanni Zarra</i>	391

ITALIAN PRACTICE RELATING TO INTERNATIONAL LAW

Classification Scheme 425

JUDICIAL DECISIONS

(edited by *Daniele Amoroso* and *Andrea Caligiuri*)

II. INTERNATIONAL CUSTOM, LAW OF TREATIES AND OTHER SOURCES OF INTERNATIONAL LAW

1. SUCCESSION TO BILATERAL TREATIES: THE CONSENT OF THE “NEW” STATE IS A NECESSARY BUT NOT SUFFICIENT CONDITION (note by *Giuseppe Puma*)

Succession of States in respect of treaties – Unilateral declarations of succession – Bilateral treaties – Extradition – Reciprocity – Articles 9 and 24 of the 1978 Vienna Convention on Succession of States in Respect of Treaties

Corte di Cassazione (Sez. VI Penale), 3 February 2017, No. 14237

Republic of Mauritius v. Soornack Nandanee

427

V. IMMUNITIES

1. CONFLICTING APPROACHES OF THE COURT OF CASSATION TO STATE IMMUNITY IN EMPLOYMENT DISPUTES (note by *Pierfrancesco Rossi*)

Immunity of foreign States from jurisdiction – Employment disputes – Restrictive immunity – Article 11 of the UN Convention on Jurisdictional Immunities of States and Their Property of 2 December 2004 (UNCJISL) – Customary international law – Article 10 of the Italian Constitution

Corte di Cassazione (Sezioni Unite Civili), 27 February 2017, No. 4882

Embassy of Qatar v. Mohamed Hasan Mohamed Awad

Corte di Cassazione (Sezioni Unite Civili), 6 June 2017, No. 13980

Cleopatra Mutinta Chibomba v. Embassy of the Republic of Zambia to the Italian Republic

431

XII. HUMAN RIGHTS

1. THE CARRYING OF A *KIRPAN* BETWEEN FREEDOM OF RELIGION, PUBLIC SAFETY AND THE (ALLEGED) DUTY OF MIGRANTS TO CONFORM TO THE VALUES OF THE “WESTERN WORLD” (note by *Giulia Ciliberto*)

Religious symbols – Article 9 of the European Convention on Human Rights (ECHR) – Public order – Values of the Western world

Corte di Cassazione (Sez. I Penale), 15 May 2017, No. 24048

Criminal proceedings against Singh Jatinder

438

2. THE “INTERNATIONALISATION” OF THE PUBLIC POLICY CLAUSE IN THE RECENT DEVELOPMENTS OF THE ITALIAN CASE LAW: A BRIEF OVERVIEW (note by *Cristina Grieco*)

Public policy – Internationalization – Punitive damages – Surrogate motherhood procedure – IVF program – Status filiationis – Best interest of the child

Corte di Cassazione (Sezioni Unite Civili), 5 July 2017, No. 16601

Axo Sport Soc. v. Nosa Inc.

442

Corte di Cassazione (Sez. I Civile), 15 June 2017, No. 14878
S.F v. Procuratore Generale presso la Corte di Cassazione e a. Corte Costituzionale, 22 November 2017, No. 272
A.L.C. v. curatore speciale di L.F.Z. 442

XIII. INTERNATIONAL CRIMINAL LAW

1. GERMANY HELD RESPONSIBLE FOR THE NAZI MASSACRE OF PIETRANSIERI
 (note by *Ferdinando Franceschelli*)
Immunity of foreign States from jurisdiction – Judgment No. 238/2014 of the Italian Constitutional Court – International crimes – Admission of responsibility
Tribunale di Sulmona, 2 November 2017, No. 20
Comune di Roccaraso and others v. Germany and Ministry of Foreign Affairs of Italy 449

XVII. RELATIONSHIP BETWEEN MUNICIPAL AND INTERNATIONAL LAW

1. TO LUXEMBOURG AND BACK: HOW JUDICIAL DIALOGUE AVOIDED A NORMATIVE CLASH BETWEEN THE EU AND ITALIAN LEGAL ORDERS
 (note by *Daniele Amoroso*)
“Taricco” judgment – Article 325 of the Treaty on the Functioning of the European Union – Financial interests of the European Union – Limitation periods – Primacy of EU law – Preliminary reference – Counter-limits doctrine – Supreme constitutional principles – Principle of legality in criminal matters – Article 25(2) of the Italian Constitution – Article 7 of the European Convention on Human Rights – Article 49 of the Charter of Fundamental Rights of the European Union – Article 4(2) of the Treaty on European Union – “National identity” clause
Corte Costituzionale, 26 January 2017, No. 24
Criminal proceedings against Mauro Bertoni and others
Criminal proceedings against D.B.C. and others 452
2. THE FORESEEABILITY OF PREVENTIVE MEASURES UNDER ITALIAN CRIMINAL LAW IN THE LIGHT OF THE EUROPEAN PRINCIPLE OF LEGALITY
 (note by *Fulvia Staiano*)
Principle of legality – Foreseeability of criminal law – Consistent interpretation – Preventive measures – Special police supervision – Obligations to live honestly and within the law – Article 2 of Protocol No. 4 to the European Convention on Human Rights
Corte di Cassazione (Sezioni Unite Penali), 27 April 2017, No. 40076
Criminal proceedings against Andrea Paternò 460

DIPLOMATIC AND PARLIAMENTARY PRACTICE (edited by *Pietro Gargiulo, Marco Pertile and Paolo Turrini*)

III. STATES AND OTHER INTERNATIONAL ENTITIES

1. THE REFERENDUM ON THE SELF-DETERMINATION OF CATALONIA
 (note by *Bianca Maganza*) 465

CONTENTS	XI
VI. TERRITORY	
1. THE STATUS OF JERUSALEM (note by <i>Paolo Turrini</i>)	468
XI. TREATMENT OF ALIENS AND NATIONALITY	
1. THE VENEZUELAN CRISIS (note by <i>Chiara Tea Antoniazzi</i>)	476
XII. HUMAN RIGHTS	
1. THE RIGHT OF DEFENSE BEFORE THE ROMAN ROTA (note by <i>Federico Di Dario and Luigi D'Ettore</i>)	484
XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS	
1. ITALY'S INVOLVEMENT IN POST-CONFLICT LIBYA. THE LIBYAN COAST GUARD TRAINING MISSION (note by <i>Alessio Gracis</i>)	486
XV. INTERNATIONAL ECONOMIC LAW	
1. CHINA'S MARKET ECONOMY STATUS (note by <i>Julinda Beqiraj</i>)	490
XVII. RELATIONSHIP BETWEEN MUNICIPAL AND INTERNATIONAL LAW	
1. PRESIDENT MATTARELLA'S REFUSAL TO PROMULGATE A LAW ON THE FINANCING OF THE ARMS INDUSTRY (note by <i>Riccardo Labianco</i>)	495
XVIII. USE OF FORCE AND PEACE-KEEPING	
1. THE USE OF CHEMICAL WEAPONS AT KHAN SHAYKHUN AND THE US ATTACK ON A SYRIAN AIRFIELD (note by <i>Marco Pertile</i>)	502
XIX. ARMED CONFLICT, NEUTRALITY, AND DISARMAMENT	
1. THE LEGALITY OF ITALY'S EXPORT OF ARMS (note by <i>Iotam Andrea Lerer</i>)	505
 TREATY PRACTICE (edited by <i>Marina Mancini</i>)	
XII. HUMAN RIGHTS	
MEMORANDUM OF UNDERSTANDING BETWEEN ITALY AND THE LIBYAN GOVERNMENT OF NATIONAL ACCORD ON COOPERATION IN THE FIELD OF DEVELOPMENT, FIGHT AGAINST ILLEGAL IMMIGRATION, TRAFFICKING IN HUMAN BEINGS AND SMUGGLING AND ON ENHANCEMENT OF BORDER SECURITY OF 2 FEBRUARY 2017	511
 LEGISLATION (edited by <i>Pia Acconci</i>)	
XI. TREATMENT OF ALIENS AND NATIONALITY	
<i>Law No. 47 of 7 April 2017</i> New Protective Measures for Unaccompanied Foreign Minors	513

XII. HUMAN RIGHTS

Law No. 110 of 14 July 2017

Introduction of the Crime of Torture into the Italian Legal Order 520

Law No. 167 of 20 November 2017

New Legislative Measures against Holocaust Denial-Negationism 528

BIBLIOGRAPHIES

ITALIAN BIBLIOGRAPHICAL INDEX OF INTERNATIONAL LAW 2017 533
(edited by *Giulio Bartolini* and *Alessandro Chechi*)REVIEW OF BOOKS 561
(edited by *Marco Gestri*)

LARISSA VAN DEN HERIK (ed.), *Research Handbook on UN Sanctions and International Law*, Cheltenham, Edward Elgar Publishing, 2017 (*Natalino Ronzitti*); OONA A. HATHAWAY and SCOTT J. SHAPIRO, *The Internationalists. How a Radical Plan to Outlaw War Remade the World*, New York, Simon & Shuster, 2017 – PHILIPPE SANDS, *East West Street. On the Origins of “Genocide” and “Crimes against Humanity”*, London, Orion, 2016 (*Giorgio Sacerdoti*); ZENO CRESPI REGHIZZI, *L'intervento “come non parte” nel processo davanti alla Corte internazionale di giustizia*, Milano, Giuffrè, 2017 (*Giorgio Sacerdoti*); GIOVANNI ZARRA, *Parallel Proceedings in Investment Arbitration*, Den Haag and Torino, Eleven International Publishing and Giappichelli, 2017 (*Lorenzo Gradoni*); LAURENT MANDERIEUX and MICHELE VELLANO (eds.), *Éthique globale, bonne gouvernance et droit international économique*, Torino, Giappichelli, 2017 (*Federico Lenzerini*); ANTHEA ROBERTS, *Is International Law International?*, Oxford, Oxford University Press, 2017 (*Alessandra Asteriti*); PAOLO PALCHETTI (ed.), *L'incidenza del diritto non scritto sul diritto internazionale ed europeo*, Napoli, Editoriale Scientifica, 2016 (*Pierfrancesco Rossi*); ALEXANDER PROELSS (ed.), AMBER ROSE MAGGIO, EIKE BILTZA and OLIVER DAUM (assistant eds.), *United Nations Convention on the Law of the Sea: A Commentary*, München, Oxford and Baden-Baden, C. H. Beck/Hart/Nomos, 2017 (*Roberto Virzo*).

INDEX 595