

CONTENTS

LIST OF ABBREVIATIONS	XVII
FOREWORD: ON MY WAY OUT	XXI
<i>IN MEMORIAM</i>	
BENEDETTO CONFORTI <i>Massimo Iovane</i>	3
LUIGI FERRARI BRAVO <i>Giorgio Sacerdoti</i>	13
<i>Focus</i> <i>THE MIGRATORY CRISIS: CURRENT CHALLENGES FOR INTERNATIONAL AND EUROPEAN LAW</i>	
EUNAVFOR MED: FIGHTING MIGRANT SMUGGLING UNDER UN SECURITY COUNCIL RESOLUTION 2240 (2015) <i>Marco Gestri</i>	21
SIXTY-FIVE YEARS AND IT SHOWS THEM ALL: PROPOSALS FOR AMENDING THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES <i>Federico Lenzerini</i>	55
DETENTION AND EXPULSION OF MIGRANTS: THE <i>KHLAIFIA V. ITALY</i> CASE <i>Maria Rosaria Mauro</i>	85
THE EU'S HOTSPOT APPROACH TO MANAGING THE MIGRATION CRISIS: A BLIND SPOT FOR INTERNATIONAL RESPONSIBILITY? <i>Federico Casolari</i>	109
SOME OBSERVATIONS ON THE LEGAL RESPONSIBILITY OF STATES AND INTERNATIONAL ORGANIZATIONS IN THE EXTRATERRITORIAL PROCESSING OF ASYLUM CLAIMS <i>Anna Liguori</i>	135

THE PROTECTION OF EUROPEAN UNION CITIZENS VICTIMS OF HUMAN TRAFFICKING IN EUROPE	159
<i>Fulvia Staiano</i>	

NOTES AND COMMENTS

THE LEGAL REGIME OF WRECKS OF WARSHIPS AND OTHER STATE- OWNED SHIPS IN INTERNATIONAL LAW: THE 2015 RESOLUTION OF THE <i>INSTITUT DE DROIT INTERNATIONAL</i>	181
---	-----

Sarah Dromgoole

STRENGTHENING COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW: THE FAILED PROPOSAL FOR A “MEETING OF STATES ON INTERNATIONAL HUMANITARIAN LAW”	201
---	-----

Giulio Bartolini

COUNTERING “FOREIGN TERRORIST FIGHTERS”: A CRITICAL APPRAISAL OF THE FRAMEWORK ESTABLISHED BY THE UN SECURITY COUNCIL RESOLUTIONS	227
---	-----

Francesca Capone

THE PROTECTION OF PRIVATE INVESTORS’ RIGHTS IN RECENT INTERNATIONAL INVESTMENT AGREEMENTS	251
--	-----

Stefano Silingardi

THE ACHIEVEMENTS AND LIMITS OF ITALIAN ANTI-CORRUPTION LEGISLATION IN LIGHT OF THE INTERNATIONAL LEGAL FRAMEWORK	275
---	-----

Leonardo Borlini

THE PARIS AGREEMENT ON CLIMATE CHANGE: BALANCING “LEGAL FORCE” AND “GEOGRAPHICAL SCOPE”	299
--	-----

Christine Bakker

IN PRAISE OF SUSTAINABILITY: THE ENCYCLICAL LETTER <i>LAUDATO SI</i> AND ITS LEGAL-ECONOMIC IMPLICATIONS	311
---	-----

Massimiliano Montini and Francesca Volpe

PRACTICE OF INTERNATIONAL COURTS AND TRIBUNALS

THE JUDICIAL ACTIVITY OF THE INTERNATIONAL COURT OF JUSTICE IN 2015	327
--	-----

Daniele Amoroso

CONTENTS	IX
THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER LAW OF THE SEA JURISDICTIONS (2015) <i>Tullio Treves</i>	363
INTERNATIONAL CRIMINAL JUSTICE (2015) <i>Carlo Focarelli</i>	389
THE WTO DISPUTE SETTLEMENT SYSTEM IN 2015 edited by <i>Giorgio Sacerdoti</i>	429
THE ARBITRAL PRACTICE OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID) IN 2015 <i>Eduardo Savarese</i>	469
ITALIAN PRACTICE RELATING TO INTERNATIONAL LAW	
<i>Classification Scheme</i>	495
JUDICIAL DECISIONS (edited by <i>Daniele Amoroso</i> and <i>Andrea Caligiuri</i>)	
V. IMMUNITIES	
Immunity of foreign States from Jurisdiction – Judgment No. 238/2014 of the Italian Constitutional Court – International Crimes – Reparation – Universal Civil Jurisdiction – UN Convention on Jurisdictional Immunities of States and Their Property of 2 December 2004 <i>Corte Costituzionale</i> , 3 March 2015, No. 30 (order) <i>Donati v. Scheungraber, Stommel and Germany</i> <i>Corte di Cassazione (Sezioni Unite Civili)</i> , 6 May 2015, No. 9097 <i>Germany v. Sterea Ellada Region</i> <i>Corte di Cassazione (Sezioni Unite Civili)</i> , 6 May 2015, No. 9098 <i>Germany v. Sterea Ellada Region</i> <i>Tribunale di Firenze (Sez. II)</i> , 6 July 2015, No. 2468 <i>Bergamini v. Germany and Italy</i> <i>Tribunale di Firenze (Sez. II)</i> , 6 July 2015, No. 2469 <i>Simoncioni v. Germany and Italy</i> <i>Corte di Cassazione (Sezioni Unite Civili)</i> , 28 October 2015, No. 21946 <i>Flatow and others v. Iran and Ministry of Intelligence and Security of Iran</i> <i>Corte di Cassazione (Sezioni Unite Civili)</i> , 28 October 2015, No. 21947 <i>Eisenfeld and others v. Iran and Ministry of Intelligence and Security of Iran</i> <i>Corte di Cassazione (Sez. I Penale)</i> , 29 October 2015, No. 43696 <i>Criminal proceedings against Dobrivoje Opačić</i>	497

- Immunity of foreign States from jurisdiction – UN Convention on Jurisdictional Immunities of States and Their Property of 2 December 2004 – Restrictive immunity – Distinction between *acta jure imperii* and *acta jure gestionis*
Corte di Cassazione (Sezioni Unite Civili), 1 April 2015, No. 6603 (order)
Brazil v. Italplan Engineering Environment & Transports s.p.a. 509
- Immunity of foreign States from jurisdiction – Restrictive immunity – Distinction between *acta jure imperii* and *acta jure gestionis* – 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970 – UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects of 24 June 1995 – Implied waiver of immunity
Corte di Cassazione (Sezioni Unite Civili), 5 October 2015, No. 19784 (order)
Consulate General of Peru in Milan v. Moshe Tabibnia 511
- VII. LAW OF THE SEA
- Criminal jurisdiction over crimes committed at sea by foreigners on foreign ships – Article 1 of the Convention for the Unification of Certain Rules Relating to Penal Jurisdiction in matters of Collision or Other Incidents of Navigation of 10 May 1952 – Articles 27, 97 and 311 of the UN Convention on the Law of the Sea of 10 December 1982 – Scope of the expression “collision or any other incidents of navigation” – Death caused by the collision of two ships in the UK territorial sea
Corte di Cassazione (Sez. VI penale), 5 January 2015, No. 48
Criminal proceedings against Pasquale Miccio 514
- International maritime piracy – Articles 100-107 and 110 of the UN Convention on the Law of the Sea of 10 December 1982 – Prosecution of maritime piracy – Italian jurisdiction – Unconditional punishability – Articles 1135 and 1136 of the Italian Navigation Code – Italian criminal sanctions with specific reference to maritime piracy
Corte di Cassazione (Sez. V penale), 27 February 2015, No. 15977
Criminal proceedings against Abdi Abdullahi Ahmed, Gedi Aptidon Hassan, Mahamed Isse Karshi, Abdi Hassan Mahmoud, Abdillahi Ali Ahmed, Daley Mahamed Ali, Ahmaed Mahmed Ali and Hashi Abdi Hawiyke 517
- XI. TREATMENT OF ALIENS AND NATIONALITY
- International protection – Obligation to provide information on access to and the procedures for international protection – Article 8 of EU Directive 2013/32 – Principle of consistent interpretation – Power of the judge to examine the legitimacy of the “detention” and “reception” measures
Corte di Cassazione (Sez. IV civile), 25 March 2015, No. 5926 (order)
Abraham Igberaese v. Ministero dell’Interno 519

XII. HUMAN RIGHTS

Same-sex couples – Right to marry – Denial of same-sex marriage under the Italian legal system – Articles 8 and 12 of the European Convention on Human Rights – Need for a law creating an alternative form of protection of same-sex unions – Article 2 of the Italian Constitution

Corte di Cassazione (Sez. I civile), 9 February 2015, No. 2400

A.A. and D.S.P.G. v. Ministero dell'Interno – Sindaco del Comune di Roma 523

XIII. INTERNATIONAL CRIMINAL LAW

Terrorist enlistment – Terrorist recruitment – Interpretation of domestic criminal law in accordance with international treaties – Council of Europe Convention on the Prevention of Terrorism – International Convention against the Recruitment, Use, Financing and Training of Mercenaries

Corte di Cassazione (Sez. I penale), 9 September 2015, No. 40699

Criminal proceedings against Elezi Elvis and Halili el Mahdi 527

XV. INTERNATIONAL ECONOMIC LAW

Italy-Hungary Bilateral Investment Treaty of 7 February 1987 – Fair and equitable treatment of foreign investments – General principles of international investment law – Legitimate expectations of investors – Unilateral promises by States

Corte di Cassazione (Sez. III civile), 19 October 2015, No. 21085

San Marco Progetti Srl in liquidazione v. Magyar Nemzeti Vagyongazdálkodási Központ, Republic of Hungary and Ministry of Finance of the Republic of Hungary 533

XVII. RELATIONSHIP BETWEEN MUNICIPAL AND INTERNATIONAL LAW

Relationship between the Italian Constitution and the European Convention on Human Rights – Article 117(1) of the Italian Constitution – Consistent interpretation – Hierarchy of norms – Confiscation without conviction

Corte Costituzionale, 26 March 2015, No. 49 536

DIPLOMATIC AND PARLIAMENTARY PRACTICE

(edited by *Pietro Gargiulo* and *Marco Pertile*)

III. STATES AND OTHER INTERNATIONAL LAW SUBJECTS

1. ON THE ESTABLISHMENT OF EGYPT'S EXCLUSIVE ECONOMIC ZONE AND THE ARREST OF TWO ITALIAN TRAWLERS 545

2. TWO PARLIAMENTARY MOTIONS ON THE RECOGNITION OF PALESTINE 546

XI. TREATMENT OF ALIENS AND NATIONALITY

1. THE PURPOSES OF THE TRITON MISSION IN THE MEDITERRANEAN 550

2.	THE LEGAL STATUS OF CHILDREN BORN IN ITALY FROM PARENTS WHO BENEFIT FROM INTERNATIONAL PROTECTION	550
3.	THE GOVERNMENT'S VIEWS ON THE STRATEGY TO ADDRESS THE EMERGENCY MIGRATORY FLOWS FROM AFRICA	551
4.	THE DEBATE ON THE REVISION OF THE EUROPEAN ASYLUM POLICY	
	A. The Italian Proposal to Modify the European Asylum Policy	553
	B. On the Initiatives Aimed At Suspending the "Dublin III" Regulation	553
	C. Humanitarian Channels for Migratory Flows and Measures to Curb Human Trafficking	554
XIV.	CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS	
1.	ITALY'S PARTICIPATION IN THE INTERNATIONAL COALITION AGAINST ISIL/DAESH AND ITS POSITION ON THE CONFLICTS IN SYRIA, IRAQ, AND LIBYA	
	A. The Aftermath of the Terrorist Attacks against the Satirical Magazine Charlie Hebdo	556
	B. Italy's Position on the Need for a Political Transition in Syria	557
	C. The Italian Contribution to the Fight against ISIL/Daesh with reference to the Situation in Syria, Libya, Turkey, and Iraq	558
	D. Italy's Position on the Involvement of the Russian Federation in the International Coalition against ISIL/Daesh	561
	E. The Government's View on the Imposition of an Arms Embargo on Countries Allegedly Involved in Arms Trafficking with ISIL/Daesh	561
2.	THE WORK OF THE INTERNATIONAL LAW COMMISSION ON THE MOST FAVORED NATION CLAUSE	563
3.	THE WORK OF THE INTERNATIONAL LAW COMMISSION ON CRIMES AGAINST HUMANITY	564
4.	THE ADOPTION OF A CODE OF CONDUCT ON OUTER SPACE ACTIVITIES	565
XVI.	INTERNATIONAL ORGANIZATIONS	
1.	UNITED NATIONS SECURITY COUNCIL REFORM	566
XVIII.	USE OF FORCE AND PEACE-KEEPING	
1.	ON BIOMETRIC DATA CAPTURE BY THE ITALIAN ARMED FORCES ABROAD: THE ITALIAN LEGISLATION ON DATA PROTECTION IS NOT APPLICABLE EXTRATERRITORIALY	569
XIX.	ARMED CONFLICT, NEUTRALITY, AND DISARMAMENT	
1.	ITALY'S POSITION ON THE SITUATION IN UKRAINE AND ON SANCTIONS AGAINST THE RUSSIAN FEDERATION	
	A. The Minister of Foreign Affairs and International Cooperation on New Developments in the Conflict in Ukraine	569
	B. The Deputy Minister of Economic Development on Sanctions against Russia	570
	C. The Minister of Foreign Affairs and International Cooperation on the Decisions To Be Taken at the EU Level Regarding Sanctions against Russia	573

2. THE GOVERNMENT'S POSITION ON THE EU COMMISSION LEGISLATIVE PROPOSAL ON MANDATORY TRACEABILITY OF MINERALS FROM ARMED CONFLICT AREAS	574
3. THE GOVERNMENT'S POSITION ON THE EU INTERPRETATIVE NOTICE ON GOODS ORIGINATING FROM THE TERRITORIES OCCUPIED BY ISRAEL	575
4. THE PURSUIT OF NUCLEAR DISARMAMENT	577

AGREEMENTS TO WHICH ITALY IS A PARTY AND AGREEMENTS AND UNDERSTANDINGS TO WHICH ITALIAN REGIONS AND AUTONOMOUS PROVINCES ARE PARTIES

(edited by *Chiara Altafin* and *Marina Mancini*)

I

AGREEMENTS TO WHICH ITALY IS A PARTY

A) AGREEMENTS SIGNED BY ITALY, PUBLISHED IN THE <i>GAZZETTA UFFICIALE</i> IN 2015	
IV. DIPLOMATIC AND CONSULAR RELATIONS	580
VII. LAW OF THE SEA	580
IX. CULTURAL HERITAGE	581
X. AIR AND SPACE LAW	581
XI. TREATMENT OF ALIENS AND NATIONALITY	581
XII. HUMAN RIGHTS	581
XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS	
1. LEGAL AND JUDICIAL CO-OPERATION	582
2. MILITARY AND SECURITY MATTERS	583
3. CULTURAL, EDUCATIONAL, SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION	584
4. NEIGHBOURLY RELATIONS	584
5. TRANSPORT	585
6. SOCIAL SECURITY	585
XV. INTERNATIONAL ECONOMIC LAW	
1. GENERAL ECONOMIC AND FINANCIAL CO-OPERATION	586
2. TAXATION	586
3. ECONOMIC DEVELOPMENT AND DEVELOPMENT CO-OPERATION	587

XVI. INTERNATIONAL ORGANIZATIONS	
1. HEADQUARTERS AGREEMENTS AND LEGAL STATUS	588
2. EUROPEAN UNION	588
B) AGREEMENTS SIGNED BY ITALY, PUBLISHED BEFORE 2014, THE ENTRY INTO FORCE OF WHICH WAS ANNOUNCED IN THE <i>GAZZETTA UFFICIALE</i> IN 2015	
XIV. CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO-ECONOMIC MATTERS	
1. LEGAL AND JUDICIAL CO-OPERATION	589
2. MILITARY AND SECURITY MATTERS	590
XV. INTERNATIONAL ECONOMIC LAW	
1. GENERAL ECONOMIC AND FINANCIAL CO-OPERATION	590
2. TAXATION	590
3. LABOUR	591
XVI. INTERNATIONAL ORGANIZATIONS	
1. HEADQUARTERS AGREEMENTS AND LEGAL STATUS	591
2. EUROPEAN UNION	591

II

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

A) AGREEMENTS SIGNED BY ITALIAN REGIONS AND AUTONOMOUS PROVINCES IN 2015	
LOMBARDIA	593
MARCHE	593
B) UNDERSTANDINGS SIGNED BY ITALIAN REGIONS AND AUTONOMOUS PROVINCES IN 2015	
AUTONOMOUS PROVINCE OF BOLZANO	594
AUTONOMOUS PROVINCE OF TRENTO	594
EMILIA-ROMAGNA	594
FRIULI-VENEZIA GIULIA	594

CONTENTS	XV
LOMBARDIA	595
VENETO	595
UMBRIA	595
LEGISLATION (edited by <i>Pia Acconci</i>)	
VIII. ENVIRONMENT	597
XI. TREATMENT OF ALIENS AND NATIONALITY	597
XVIII. USE OF FORCE AND PEACE-KEEPING	599
BIBLIOGRAPHIES	
ITALIAN BIBLIOGRAPHICAL INDEX OF INTERNATIONAL LAW 2015 (edited by <i>Giulio Bartolini</i> and <i>Alessandro Chechi</i>)	605
REVIEW OF BOOKS (edited by <i>Marco Gestri</i>)	633
<p>MARC WELLER (ed.), <i>The Oxford Handbook of the Use of Force in International Law</i>, Oxford, Oxford University Press, 2015 (<i>Natalino Ronzitti</i>); ROBERTO VIRZO and IVAN INGRAVALLO (eds.), <i>Evolutions in the Law of International Organizations</i>, Leiden/Boston, Brill Nijhoff, 2015 (<i>Giulio Bartolini</i>); ANDREA DE GUTTRY, FRANCESCA CAPONE and CHRISTOPHE PAULUSSEN (eds.), <i>Foreign Fighters under International Law and Beyond</i>, The Hague, Asser Press/Springer, 2016 (<i>Loris Marotti</i>); SAVERIO DI BENEDETTO, <i>International Investment Law and the Environment</i>, Cheltenham/Northampton, Edward Elgar, 2013 (<i>Giovanni Zarra</i>).</p>	
INDEX	661

