

CONTENTS

LIST OF ABBREVIATIONS	XV
FOREWORD <i>Giuseppe Nesi</i>	1
 <i>Symposium</i> <i>THE MEDITERRANEAN SEA AND INTERNATIONAL LAW</i>	
MARITIME DELIMITATIONS IN THE MEDITERRANEAN: CURRENT CHALLENGES <i>Gabriela A. Oanta</i>	3
THE ITALIAN LAW AUTHORIZING THE CREATION OF AN EXCLUSIVE ECONOMIC ZONE <i>Giuseppe Cataldi</i>	29
ON THE LEGAL REGIME OF WATERS OFF THE DISPUTED TERRITORIES IN THE EASTERN MEDITERRANEAN <i>Andrea Caligiuri</i>	49
THE PROTECTION OF UNDERWATER CULTURAL HERITAGE IN THE MEDITERRANEAN SEA <i>Tullio Scovazzi</i>	73
TENSIONS AND COOPERATION IN REALIZING MARITIME SECURITY IN THE MEDITERRANEAN SEA: THE EXAMPLES OF MARITIME TERRORISM AND IRREGULAR MIGRATION <i>Sofia Galani</i>	91
THE MEDITERRANEAN SEA BETWEEN LEGEND AND CRIME: THE TRICKY QUESTION OF JURISDICTION FOR MEDITERRANEAN STATES <i>Laura Magi</i>	117
THE CONSERVATION OF BIODIVERSITY IN THE MEDITERRANEAN SEA THROUGH MARINE PROTECTED AREAS: THE BARCELONA SYSTEM FACED WITH THE EXPANSION OF COASTAL STATE JURISDICTION <i>Simone Vezzani</i>	141
SUSTAINABLE MANAGEMENT OF FISHERIES RESOURCES IN A TIME OF CLIMATE CHANGE: AN OVERVIEW OF INITIATIVES IN THE MEDITERRANEAN REGION <i>Elisa Fornalé, Federica Cristani and Vilane Gonçalves Sales</i>	171

THE LEGAL REGIME GOVERNING MEDITERRANEAN FISHERIES: THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN OF THE FAO AND THE ADDED-VALUE OF ARTICLE XIV BODIES <i>Nicola Ferri</i>	189
THE ROLE OF INTERNATIONAL ORGANIZATIONS IN THE MEDITERRANEAN SEA: AN APPRAISAL OF THE UNION FOR THE MEDITERRANEAN <i>Eleonora Branca</i>	201
 ARTICLES, NOTES AND COMMENTS	
THE PLACE OF CITIES IN THE EVOLUTION OF INTERNATIONAL HUMANITARIAN LAW <i>Mirko Sossai</i>	227
THE TREATY OF QUIRINALE BETWEEN ITALY AND FRANCE <i>Natalino Ronzitti</i>	253
ITALY'S IMPLEMENTATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT AND ITS AMENDMENTS: UNRESOLVED ISSUES <i>Marina Mancini</i>	263
STATE IMMUNITY, DELEGATION OF PUBLIC POWERS TO PRIVATE ACTORS AND ACCESS TO JUSTICE: ANYTHING NEW UNDER THE (EUROPEAN) SUN? <i>Andrea Spagnolo</i>	277
THE NEW ITALIAN LAW AGAINST INVESTMENT IN ANTI-PERSONNEL MINES AND CLUSTER MUNITIONS: ACHIEVEMENTS AND LOOPHOLES <i>Pierfrancesco Rossi</i>	297
ITALIAN LEGISLATION IN TIMES OF PANDEMICS AND INTERNATIONAL LAW: EXCEPTIONALISM, BALANCING AND COMPLIANCE <i>Donato Greco</i>	311
 PRACTICE OF INTERNATIONAL COURTS AND TRIBUNALS	
THE JUDICIAL ACTIVITY OF THE INTERNATIONAL COURT OF JUSTICE IN 2021 <i>Serena Forlati</i>	337
INTERNATIONAL CRIMINAL JUSTICE (2021) <i>Raffaella Nigro</i>	355

CONTENTS	IX
THE WTO AND ITS DISPUTE SETTLEMENT SYSTEM IN 2021: THE SEMI-PARALYSIS PERSISTS BUT AFTER MC12 THERE IS REASON TO HOPE <i>Giorgio Sacerdoti</i>	377
APPLICABLE LAW IN INVESTMENT ARBITRATION: THE 2021 PRACTICE <i>Giovanni Zarra</i>	391
ITALIAN PRACTICE RELATING TO INTERNATIONAL LAW	
<i>Classification Scheme</i>	423
JUDICIAL DECISIONS (edited by <i>Daniele Amoroso</i> and <i>Andrea Caligiuri</i>)	
V. IMMUNITIES	
STATE IMMUNITY FOR UNPAID MEDICAL SERVICES AND THE CRITERIA FOR IDENTIFYING A COMMERCIAL TRANSACTION (note by <i>Eugenio Carli</i>)	
<i>Order for payment – State immunity – Restrictive theory of sovereign immunity – Acta jure gestionis – Commercial transaction – United Nations Convention on Jurisdictional Immunities of States and Their Property Corte di Cassazione (Sezioni Unite Civili), 16 September 2021, No. 25045 (Order)</i>	
<i>Nomentana Hospital S.r.l. v. Libya</i>	425
STATE IMMUNITY IN EMPLOYMENT DISPUTES AND THE NATO STATUS OF FORCES AGREEMENT: QUESTIONING THE ITALIAN CASE LAW (note by <i>Pierfrancesco Rossi</i>)	
<i>Immunity of foreign States from jurisdiction – Employment disputes – NATO Status of Forces Agreement (SOFA) – Local personnel of visiting forces – Restrictive immunity – Article 11 of the UN Convention on Jurisdictional Immunities of States and Their Property Corte di Cassazione (Sezioni Unite Civili), 22 October 2021, No. 29556</i>	
<i>United States of America v. Fiscella</i>	431
RECOGNITION OF FOREIGN JUDICIAL DECISIONS DENYING STATE IMMUNITY FOR TERRORIST ACTS: WHAT ROLE FOR THE PUBLIC POLICY CLAUSE? (note by <i>Giovanni Zarra</i>)	
<i>Recognition of foreign (US) civil decisions in Italy – State immunity – Terrorism exception under the US Foreign Sovereign Immunities Act – Delicta imperii – Protection of fundamental rights of victims of terrorism – Positive public policy – Human dignity Corte di Cassazione (Sez. I Civile), 10 December 2021, No. 39391 (Order)</i>	
<i>Angela Stergiopoulos and Others v. Islamic Republic of Iran and Others</i>	436

VII. LAW OF THE SEA

CONSENT OF THE FLAG STATE AND JURISDICTION OF THE COASTAL STATE WITH RESPECT TO FOREIGN SHIPS ENGAGED IN ILLICIT DRUG TRAFFICKING AT SEA (note by *Gian Maria Farnelli*)

Flag State exclusive jurisdiction – Jurisdiction of the coastal State – Illicit drug trafficking – Authorization of the flag State – Cooperation – UN Convention on the Law of the Sea – UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

Corte di Cassazione (Sez. IV Penale), 3 August 2021, No. 30228

Criminal proceedings against Lyskov Volodymyr and Others

442

VIII. ENVIRONMENT

PROTECTION OF ENVIRONMENTAL MIGRANTS IN ITALY IN LIGHT OF THE LATEST JURISPRUDENTIAL DEVELOPMENTS (note by *Federica Passarini*)

Environmental migrants – Human rights – United Nations Human Rights Committee – Teitiota case – Principle of non-refoulement – Humanitarian protection – Subsidiary protection

Corte di Cassazione (Sez. II Civile), 24 February 2021, No. 5022 (Order)

447

XI. TREATMENT OF ALIENS AND NATIONALITY

GENDER-BASED VIOLENCE AGAINST WOMEN AS A FORM OF PERSECUTION FOR THE PURPOSES OF THE RECOGNITION OF REFUGEE STATUS (note by *Fulvia Staiano*)

Refugee status – Grounds of persecution – Membership of a particular social group – Gender-based asylum claims – Violence against women – Forced marriage – Article 1(A)(2) of the 1951 Convention Relating to the Status of Refugees – Article 60 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence – Convention on the Elimination of All Forms of Discrimination against Women – Gender-sensitive interpretation of treaties – Legal character of UNHCR Guidelines

Corte di Cassazione (Sez. III Civile), 9 June 2021, No. 16172 (Order)

Esther Esewi Omoragbon v. Ministero dell'Interno

453

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

COVID-19 AS A GROUND FOR REFUSAL OF EXTRADITION: THE VALUE OF DIPLOMATIC ASSURANCES (note by *Khrystyna Gavrysh*)

Extradition – Diplomatic assurances – International judicial co-operation in criminal matters – Grounds for refusal – Covid-19 – Inhuman and degrading treatment – Human rights – World Health Organization

Corte di Cassazione (Sez. VI Penale), 3 November 2020, No. 30642
In the Matter of the Extradition of Maurizio Bianchi

458

XVII. RELATIONSHIP BETWEEN MUNICIPAL AND INTERNATIONAL LAW

LIVING SPACE FOR DETAINEES: THE *CORTE DI CASSAZIONE* ON THE ROLE OF THE EUROPEAN COURT OF HUMAN RIGHTS CASE LAW ON CONDITIONS OF DETENTION (note by *Alfredo Terrasi*)

Penitentiary system – Conditions of detention – Prison overcrowding – Prohibition of inhuman and degrading treatment or punishment – Square metres per person – Implementation of European Court of Human Rights judgments – Judicial remedies for inadequate conditions of detention – Article 35-ter of the Penitentiary System Act
Corte di Cassazione (Sezioni Unite Penali), 19 February 2021, No. 6551
Criminal Proceedings against Cosimo Commisso

462

DOMESTIC FUNDAMENTAL PRINCIPLES VS. BEST INTEREST OF THE CHILD: THE *CORTE COSTITUZIONALE* ON PROHIBITED MEDICALLY ASSISTED REPRODUCTION TECHNIQUES (note by *Antonio Mariconda*)

Medically assisted reproduction – Gestational surrogacy – Best interest of the child – Mother-child relationship – Law No. 40/2004 – Judicial dialogue – Article 117(1) of the Italian Constitution
Corte Costituzionale, 9 March 2021, No. 32
V.B. v. C.R.
Corte Costituzionale, 9 March 2021, No. 33
Ministero dell’Interno v. P.F. and F.B.

468

ABOUT MISUNDERSTANDINGS: THE ITALIAN JUDICIARY’S APPROACH TO THE “DIRECT APPLICABILITY” OF THE ECHR (note by *Lorenzo Acconciamesa* and *Francesca Tammone*)

Relationship between the Italian legal order and the ECHR – Domestic implementation of human rights treaties – Direct applicability – Self-executing treaties – Direct effects of treaties – Hierarchy of norms in domestic legal systems
Corte di Cassazione (Sezioni Unite Civili), 5 July 2021, No. 18923
Disciplinary Proceedings against Luciano Padula

475

BETWEEN THE PRINCIPLE OF LEGALITY AND THE RENVOI TO INTERNATIONAL TREATIES: ITALIAN JURISDICTION OVER TRANSNATIONAL CRIMES COMMITTED BEYOND NATIONAL TERRITORY (note by *Daniele Mandrioli*)

International duties of criminalization – Dualistic approach – Execution order – Extra-territorial criminal jurisdiction – UN Convention against Transnational Organized Crime – Smuggling of migrants – Italian Criminal Code – Self-executing provisions – Constitutional principle of legality

	<i>Corte di Cassazione (Sez. I Penale)</i> , 13 August 2021, No. 31652 <i>Criminal Proceedings against Jomaa Laamami Tarek and Others</i>	481
 DIPLOMATIC AND PARLIAMENTARY PRACTICE (edited by <i>Pietro Gargiulo</i> , <i>Marco Pertile</i> and <i>Paolo Turrini</i>)		
I.	INTERNATIONAL LAW IN GENERAL	
	THE LEGALITY OF SANCTIONS BETWEEN THE CONDEMNATION OF THEIR EXTRATERRITORIAL APPLICATION AND HUMANITARIAN CONCERNS (note by <i>Paolo Turrini</i>)	487
III.	STATES AND OTHER INTERNATIONAL ENTITIES	
	THE NON-RECOGNITION OF THE TALIBAN GOVERNMENT OF AFGHANISTAN (note by <i>Filomena Medea Tulli</i>)	494
V.	IMMUNITIES	
	THE SCOPE OF THE IMMUNITY OF UNITED NATIONS PERSONNEL (note by <i>Piergiuseppe Parisi</i>)	499
VII.	LAW OF THE SEA	
	THE LEGALITY OF THE LIBYAN FISHERIES PROTECTION ZONE AND THE COASTAL STATE'S ENFORCEMENT POWERS: A CHANGE OF POLICY (note by <i>Marco Pertile</i>)	504
VIII.	ENVIRONMENT	
	THE LIFETIME EXTENSION OF FRENCH NUCLEAR POWER PLANTS (note by <i>Chiara Tea Antoniazzi</i>)	512
XIV.	CO-OPERATION IN JUDICIAL, LEGAL, SECURITY, AND SOCIO- ECONOMIC MATTERS	
	INTERNATIONAL COOPERATION IN THE FIGHT AGAINST COVID-19 AND THE EFFORTS FOR EQUAL ACCESS TO AND DISTRIBUTION OF VACCINES (note by <i>Ludovica di Lullo</i>)	517
XIX.	ARMED CONFLICT, NEUTRALITY, AND DISARMAMENT	
	THE RUSSIAN AGGRESSION AGAINST UKRAINE: ISSUES OF RECOGNITION, SANCTIONS AND THE SUPPLY OF WEAPONS (note by <i>Antonino Ali</i>)	522
	THE RESUMPTION OF HOSTILITIES BETWEEN ISRAEL AND PALESTINIAN ARMED GROUPS AND THE QUALIFICATION OF PALESTINIAN CIVIL SOCIETY ASSOCIATIONS AS TERRORIST ORGANIZATIONS (note by <i>Giulia Cagol</i>)	529

BIBLIOGRAPHIES

ITALIAN BIBLIOGRAPHICAL INDEX OF INTERNATIONAL LAW 2021 (edited by <i>Giulio Bartolini</i> and <i>Alessandro Chechi</i>)	539
--	-----

BOOK REVIEWS (edited by <i>Marco Gestri</i>)	571
--	-----

MARINA MANCINI, *Statualità e non riconoscimento nel diritto internazionale* (Statehood and Non-Recognition in International Law), Torino, Giappichelli Editore, 2020 (*Peter Hilpold*); MARIO GERVASI, *Prevention of Environmental Harm under General International Law: An Alternative Reconstruction*, Napoli, Edizioni Scientifiche Italiane/Nomos, 2021 (*Lorenzo Gradoni*); LORIS MAROTTI, *Il doppio grado di giudizio nel processo internazionale* (Appellate Authority in International Adjudication), Torino, Giappichelli Editore, 2019 (*Lorenzo Gradoni*); ANTONIO CASSESE, *Il diritto internazionale in Italia* (International Law in Italy) (edited by MICHAELA FRULLI), Bologna, Il Mulino, 2021 (*Giulio Bartolini*); GIUSEPPE PALMISANO (ed.), *Il diritto internazionale ed europeo nei giudizi interni* (International and European Law in Domestic Courts), Napoli, Editoriale Scientifica, 2020 (*Stefano Silingardi*); VALENTINA VADI, *War and Peace. Alberico Gentili and the Early Modern Law of Nations*, Leiden/Boston, Brill Nijhoff, 2020 (*Mariangela La Manna*); CATHARINE TITI, *The Function of Equity in International Law*, Oxford, Oxford University Press, 2021 (*Federica Cristani*); NICHOLAS MULDER, *The Economic Weapon. The Rise of Sanctions as a Tool of Modern War*, New Haven/London, Yale University Press, 2022 (*Antonino Ali*); RICCARDO PISILLO MAZZESCHI, *International Human Rights Law. Theory and Practice*, Cham/Torino, Springer and Giappichelli Editore, 2021 (*Federico Lenzerini*).

INDEX	609
-------	-----