

# INDEX

## ARTICLES

G. BARILE, Reflections on Italian citizenship concurring with one or more foreign nationalities in Private International Law . . . . .	393
A. GIARDINA, Equality of spouses in Private International Law . . . . .	5
G. SPERDUTI, The systematic interpretation of Private International Law . . . . .	209
E. VITTA, The proper law for transfers of goods . . . . .	217

## SHORTER ARTICLES, NOTES AND COMMENTS

G. BADIALI, On the application of the law applicable to the form of marriages between persons of different nationality . . . . .	440
G. BISCOTTINI, On the immediate applicability of certain E.E.C. Directives . . . . .	230
S. M. CARBONE, "Community Affairs", prerogatives of the State and regional participation . . . . .	85
P. DE CESARI, The natural child's right to maintenance, Hague Conventions and Italian public policy . . . . .	238
R. DE NOVA, The Restatement, Second, Conflict of Laws . . . . .	424
R. FRANCONI, Libyan oil, Italian Courts and International Law . . . . .	444
M. GIULIANO, Private and Procedural International Law in the <i>Restatement of the Law 2d</i> . . . . .	226
M. POLITI, Criminal jurisdiction over N.A.T.O. personnel and resulting constitutional problems . . . . .	470
A. QUAGLINO, On the immunity of the I.C.E.M. from Italian jurisdiction in labour matters . . . . .	487
T. TREVES, The monetary crisis before the Court of the European Communities . . . . .	46
G. M. UBERTAZZI, Evidential validity of declarations sworn before Consular Officials . . . . .	32

## IN MEMORIAM

R. DE NOVA, A. Ehrenzweig (1906-1974) . . . . .	501
---	-----

## CASES IN ITALIAN COURTS

*Bankruptcy* - Luxembourg adjudication - Recognition and enforcement thereof in Italy - Jurisdiction of foreign court - Art. 797, No. 1, Code of Civil Procedure, and Art. 9, para. 1, Law on Bankruptcy - Adjudication one year

- after the cessation of trading - Same not contrary to Italian public policy - Difference of treatment as between citizens adjudicated bankrupt in Italy and parties so adjudicated by recognition and enforcement of a foreign judgment - Arts. 796 and 797, Code of Civil Procedure, not thereby contrary to Arts. 3 and 24 of the Italian Constitution: *Genoa Court of Appeal*, 24th March 1973 . . . . . 139
- Bankruptcy* - Art. 9, Bankruptcy Law - Businessman with principal business centre abroad - Sufficiency, for Italian bankruptcy adjudication purposes, that an effective place of business exists or that property is sited in Italy: *Genoa Tribunal*, 6th February 1974 . . . . . 321
- Citizenship* - Art. 10, Law of 13th June 1912, No. 555 - Italian woman marrying foreigner - Her acquisition of foreign nationality and loss of Italian nationality - Contrast with Arts. 3 and 29 of the Constitution - Said consequences not manifestly unconstitutional: *Milan Conciliation Court*, order 24th May 1974 . . . . . 604
- Civil Procedure* - Attorney *ad litem* appointed by a foreigner - Applicability of Art. 25, Preliminary Dispositions of the Civil Code: *Naples Tribunal*, 17th February 1971 . . . . . 355
- Civil Procedure* - Law to govern jurisdiction and form of proceedings - Art. 27, Preliminary Dispositions of the Civil Code - Law applicable to be that of the place where proceedings take place: *Naples Tribunal*, 17th February 1971 . . . . . 355
- Civil Procedure* - Defendant not domiciled, resident nor staying in Italy - Notice of proceedings - Art. 142, Code of Civil Procedure - Use of post - Registered letter - No need for delivery receipt: *Genoa Court of Appeal*, 7th April 1972 . . . . . 158
- Civil Procedure* - Document produced by foreign notary abroad - Validity thereof in Italy: *Court of Cassation* (plenary session), 14th February 1973, No. 454 . . . . . 618
- Civil Procedure* - Attorney *ad lites* appointed abroad by an Italian - Authentication of counsel - Invalidity thereof: *Court of Cassation*, 13th March 1973, No. 708 . . . . . 617
- Civil Procedure* - Action for recognition and enforcement of foreign judgment - Art. 796, Code of Civil Procedure - Subjects legitimated in primary and secondary manner: *Court of Cassation* (plenary session), 9th April 1973, No. 996 . . . . . 543
- Civil Procedure* - Notice of proceedings against a foreign company served on its representative office in Italy - Invalidity thereof when a power of representation cannot be presumed under the provisions of Art 77, Code of Civil Procedure: *Milan Court of Appeal*, 11th May 1973 . . . . . 153
- Civil Procedure* - Examination of documents in a foreign language - Art. 123, Code of Civil Procedure - Use by Court of a translator optional not mandatory: *Court of Cassation*, 14th December 1973, No. 3400 . . . . . 588
- Civil Procedure* - Interest in bringing proceedings - Action of simulation - Contract for Sale of Goods that are located in Italy between two foreign Companies - Sole possibility of commencing enforcement proceedings over such goods - Confirmation thereof, *Genoa Tribunal*, 6th March 1974 . . . . . 599

- Contract* - Assistance by Italian ships to a Somali ship in Italian territorial waters - Law governing same - Art. 25, para. 1, Preliminary Dispositions of the Civil Code - Italian Law to apply: *Arbitral Award at Genoa*, 22nd October 1973 . . . . . 573
- Contract* - Contract by Italian Ship to take in tow a foreign ship in Italian territorial waters - Law governing same - Art. 25, Preliminary Dispositions of the Civil Code - Italian Law to apply: *Arbitral Award at Genoa*, 4th November 1973 . . . . . 575
- Contract* - Contract of employment performed abroad - Proper law to regulate same - Italian nationality of parties thereto - Italian Law applicable: *Rome Tribunal*, 26th February 1974 . . . . . 622
- Contract* - Contract of employment between a private citizen and the Order of Malta - Freelance publicist nature thereof - Exclusion of Italian jurisdiction: *Court of Cassation* (plenary session), 6th June 1974, No. 1653 . . . . . 607
- Criminal Procedure* - Evidence taken by a foreign Authority abroad - Possibility of using same in Italian proceedings - Arts 27 and 31, Preliminary Dispositions of the Civil Code and Art. 41, Code of Criminal Procedure: *Court of Criminal Cassation*, 19th April 1972 . . . . . 626
- Criminal Procedure* - Crime committed abroad by an Italian - Liability to criminal proceedings therefor: *Court of Criminal Cassation*, 14th February 1973 . . . . . 626
- Criminal Procedure* - Art. 666, Code of Criminal Procedure - Jurisdiction for extradition proceedings of the Court of Appeal in whose District the subject is located at the time of the request for extradition - Contrast with Art. 25 of the Constitution - Question of constitutional validity of such proceedings not manifestly unfounded: *Milan Court of Appeal* (sezione istruttoria), order, 16th January 1974 . . . . . 625
- Divorce* - Art. 3, No. 2(b), Law on Divorce - Foreign divorce obtained by Italian citizen: *Naples Tribunal*, 23rd February 1972 . . . . . 165
- Divorce* - Art. 3, No. 2(e), Law on Divorce - Need for the petition in Italy to be presented by the Italian spouse: *Naples Tribunal*, 22nd March 1972 . . . . . 165
- Divorce* - Art. 3, No. 2(e), Law on Divorce - Classification of the expression "foreign citizen" used therein: *Naples Tribunal*, 28th March 1972 . . . . . 156
- Divorce* - Divorce between foreign spouses - Proper law - Art. 18, Preliminary Dispositions of the Civil Code. *Naples Tribunal*, 10th April 1972 . . . . . 165
- Divorce* - Art. 2 of the law of 1st December 1970, No. 898 - Its constitutional validity in the light of Arts. 7 and 138 of the Constitution and Art. 34 of the Concordat with the Vatican: *Constitutional Court*, 11th December 1973, No. 176 . . . . . 260
- Divorce* - Marriage of an Italian woman and a foreigner - Art. 3, No. 2(b), of the law on Divorce - Applicability thereof: *Cremona Tribunal*, 27th March 1974 . . . . . 307
- Euratom* - Common centre for nuclear research at Ispra - Impossibility of classing same as a "firm" - Contracts allocated by Euratom - Regulation of the use of man-power: *Varese Tribunal*, 30th March 1974 . . . . . 325

- European Economic Community* - Regulation No. 136/66 of the E.E.C. Council on the Common Market in seeds and oleiferous fruits - Subsidy as between the cost of production indicator and the market price indicator - Intended beneficiaries - Issue of constitutional invalidity of said Regulation manifestly unfounded: *Court of Cassation*, 6th October 1972, No. 2896 . . . 93
- European Economic Community* - Duties on imports from non-Member States - Falsity of Certificate of Origin on goods - Liability to duty: *Court of Cassation*, 17th April 1973, No. 1104 . . . . . 618
- European Economic Community* - Community Regulations instituting a system of premiums on the slaughter of cows - Their direct and immediate applicability within Member States - Liability of a State not enforcing same: *Brescia Court of Appeal*, 18th April 1973 . . . . . 349
- European Economic Community* - Community Regulations in the rice sector - Their prevalence over contrary norms of domestic law, deriving from the Treaty of Rome, 25th March 1957: *Genoa Tribunal*, 23rd May 1973 . . . 350
- European Economic Community* - Law of 14th October 1957, No. 1203, implementing in Italy the E.E.C. Treaty - Art. 11 of the Italian Constitution - Constitutional validity of said Law - Community Regulations - Inapplicability thereto of provisions of the Constitution dealing with legislative acts, which relate only to organs of the Italian State: *Constitutional Court*, 27th December 1973, No. 183 . . . . . 508
- European Economic Community* - Community Regulations - Direct efficacy thereof within the systems of member States - Regulation No. 120/67 on the prohibition of recovery of customs duties or similar taxes on trade with non-member countries - Relation thereof to Law of 24th June 1971, No. 447: *Naples Court of Appeal*, 18th March 1974 . . . . . 623
- Exchange Control* - Irrelevance of selling price in determining the place of payment: *Court of Cassation* (plenary session), 21st February 1974, No. 490 . . . . . 593
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Swiss divorce of Italian subjects - Application by the Court of non-Italian law, under Art. 17, Preliminary Dispositions of the Civil Code - Same not contrary to Italian public policy - Law on Divorce - Its mandatory nature and impossibility of derogating therefrom: *Venice Court of Appeal*, 15th June 1972 . . . . . 344
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - German judgment on maintenance - Jurisdiction of German Court. *Genoa Court of Appeal*, 25th August 1972 . . . . . 162
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Foreign court's maintenance order - Establishment of paternity *incidenter tantum* - Limits of proof under Italian Law - Same do not restrict foreign court - Foreign judgment not contrary to Italian public policy under Art. 797, No. 7, Code of Civil Procedure: *Court of Cassation*, 19th October 1972, No. 3133 . . . . . 98
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Swiss dissolution of a marriage celebrated in Italy under the rites

- of the Concordat with the Vatican between Italians now separated but both resident in Switzerland: *Genoa Court of Appeal*, 5th December 1972 156
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - German dissolution of a marriage between Italians on grounds not contained in the Italian Law - Same not contrary to Italian public policy: *Genoa Court of Appeal*, 14th January 1973 . . . . . 154
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Foreign divorce - Action for recognition of same - Limitation period - Applicability thereof - Difference from the conditions under the Italian law on divorce and prerequisites for the recognition proceedings: *Naples Court of Appeal*, 2nd February 1973 . . . . . 342
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Dutch dissolution of a marriage between Italians on the grounds of adultery - Recognition in Italy: *Palermo Court of Appeal*, 3rd February 1973 , . . . . . 629
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - German divorce - Substantial similarity of grounds with those provided for in the Italian Law - Not contrary to Italian public policy: *Bologna Court of Appeal*, 17th February 1973 . . . . . 119
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - German divorce: *Palermo Court of Appeal*, 10th March 1973 . . . . . 157
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Swiss annulment of a marriage between Italians - Jurisdiction of Swiss Court - Residence of parties in Switzerland - Submission to Swiss Court's jurisdiction - Domicil of wife - Art. 12, No. 3, Italo-Swiss Convention of 3rd January 1933 - Meaning of term "autorisée à avoir un domicile séparé": *Court of Cassation*, 15th March 1973, No. 738 . . . . . 526
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Proceedings for same - Art. 796, Code of Civil Procedure - Subjects legitimated in primary and secondary manner: *Court of Cassation* (plenary session), 9th April 1973, No. 996 . . . . . 543
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Principles of jurisdiction invoked under Art. 797, No. 1, Code of Civil Procedure - Art. 4, Law on Divorce - Foreign dissolution of a marriage celebrated by the rites of the Concordat - Same not contrary to Italian public policy - Art. 797, No. 6, Code of Civil Procedure - Proceedings pending in Italy on custody of the children - Same do not prevent recognition of foreign decree: *Rome Court of Appeal*, 14th April 1973 . . . . . 132
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Foreign divorce - Plea that proceedings out of time made by Attorney General's Department - Such plea not in order: *Naples Court of Appeal*, 20th April 1973 . . . . . 343
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Luxembourg bankruptcy adjudication - Effects of Italian recognition of same - Jurisdiction of foreign court - Art. 797, No. 1, Code of Civil Procedure, and Art. 9, para. 1, of the Bankruptcy Law - Foreign adjudica-

- tion one year after cessation of trading - Same not contrary to Italian public policy: *Genoa Court of Appeal*, 24th May 1973 . . . . . 139
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Foreign arbitral award - Enforcement thereof in pending proceedings. *Bari Court of Appeal*, 30th May 1973 . . . . . 285
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Swiss judgment on a liability in tort arising in Switzerland - Italo-Swiss Convention of 3rd January 1933 - Arts. 797, No. 1, and 4, No. 2, Code of Civil Procedure: *Genoa Court of Appeal*, 16th July 1973 . . . . . 163
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Recognition proceedings out of time under Art. 2934 - Possibility that limitation periods not applicable in the law applied in the foreign judgment - Irrelevance thereof: *Brescia Court of Appeal*, 20th September 1973 . . . . . 301
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - German judgment given in default of defendant's appearance on the basis solely of the allegations put forward by the plaintiff - Same not contrary to Italian public policy: *Milan Court of Appeal*, 5th October 1973 . . . . . 161
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Art. 797, No. 7, Code of Civil Procedure - Its exclusive reference to the content of the foreign judgment: *Court of Cassation*, 8th November 1973, No. 2920 . . . . . 582
- Foreign Judgments and Administrative Acts* - Recognition and enforcement in Italy - Art. 797, Nos. 1 and 4, Code of Civil Procedure - Criteria founding jurisdiction over foreigners: *Milan Court of Appeal*, 30th November 1973 . . . . . 312
- Foreign Law* - Applicability of the foreign law indicated under principles of Conflict of Laws - Need for the party invoking the same to demonstrate in what way it differs from Italian Law: *Crotone Tribunal*, 13th February 1973 . . . . . 159
- Foreign Subjects* - Foreign plaintiff - Art. 16, Preliminary Dispositions of the Civil Code and Art. 24 of the Constitution - Position equivalent to that of Italian citizen - Principle of reciprocity: *Cremona Tribunal*, 2nd February 1973 . . . . . 269
- Form of Deeds* - Agreement for foreign arbitration - Art. II, New York Convention of 10th June 1958 on the recognition and enforcement of foreign arbitral awards: *Turin Court of Appeal*, 30th March 1973 . . . . . 126
- International Custom* - International maritime custom - Criteria for evidence - Custom whereby the maritime agent may be verbally authorized to buy or sell a ship: *Genoa Court of Appeal*, 25th February 1972 . . . . . 160
- Jurisdiction* - Art. 4, No. 4, Code of Civil Procedure - Principle of reciprocity - Art. 3, No. 2(e), Law on Divorce - Same contains principles governing jurisdiction: *Rome Tribunal*, 27th January 1972 . . . . . 166
- Jurisdiction* - Art. 4 of the Law on Divorce - Same governs domestic capacity of Italian courts, not jurisdiction for international purposes: *Genoa Tribunal*, 10th March 1972 . . . . . 628

- Jurisdiction* - Art. 4, Law on Divorce - Rule governing jurisdiction: *Milan Tribunal*, 13th March 1972 . . . . . 166
- Jurisdiction* - Marital separation order - Exclusive applicability of Art. 4, No. 1, Code of Civil Procedure - Consequent lack of Italian jurisdiction when the petition is presented against a foreigner neither domiciled nor resident in Italy: *Court of Cassation* (plenary session), 22nd August 1972, No. 2698 . . . . . 88
- Jurisdiction* - Principles governing jurisdiction - Art. 4, No. 2, Code of Civil Procedure - Obligations to be performed only partly in Italy: *Court of Cassation* (plenary session), 23rd August 1972, No. 2705 . . . . . 90
- Jurisdiction* - Judicial immunity of foreign States - Applicability only to sovereign acts: *Court of Cassation* (plenary session), 14th November 1972, No. 3368 . . . . . 101
- Jurisdiction* - Criteria founding jurisdiction - Art. 4, No. 2, Code of Civil Procedure - Contractual obligations arising or to be performed in Italy - Marriage celebrated abroad with a foreigner neither domiciled nor resident in Italy - Inapplicability of said Art: *Cremona Tribunal*, 2nd February 1973 . . . . . 269
- Jurisdiction* - Italo-French Convention of 3rd June 1930 - No norms therein on jurisdiction - Italian defendant - Confirmation of Italian jurisdiction in any case: *Court of Cassation* (plenary session), 14th February 1973, No. 455 . . . . . 522
- Jurisdiction* - Art. 4, No. 3, Code of Civil Procedure - Connection by joinder of actions - Nature thereof as a basis for jurisdiction: *Court of Cassation* (plenary session), 17th February 1973, No. 491 . . . . . 115
- Jurisdiction* - Art. 4, Code of Civil Procedure - Distinct and autonomous connecting criteria provided therein quite apart from any international Convention derogating from Italian jurisdiction: *Palermo Court of Appeal*, 23rd February 1973 . . . . . 355
- Jurisdiction* - Art. 4, Code of Civil Procedure, Criteria therein - Validity thereof relative only to foreign defendant - Italian defendant - Absolute jurisdiction of Italian Court - Preliminary ruling on jurisdiction - Principle *ne bis in idem* - Applicability thereof only when the essential issues of the case have already been adjudicated: *Court of Cassation* (plenary session), 12th March 1973, No. 669 . . . . . 122
- Jurisdiction* - Art. 4, No. 1, Code of Civil Procedure - Residence of foreign defendant - Submission to Italian Court's jurisdiction - Judicial separation - Appearance before the President of the Court under Art. 708, Code of Civil Procedure: *Court of Cassation* (plenary session), 29th March 1973, No. 863 . . . . . 539
- Jurisdiction* - Judicial immunity of foreign States - Labour dispute between an employee of S.E.T.A.F. and the U.S.A. - Exclusion of said immunity: *Venice Court of Appeal*, 19th April 1973 . . . . . 352
- Jurisdiction* - Relationship of unfit guarantee - Art. 4, No. 2, Code of Civil Procedure - Scope thereof: *Court of Cassation* (plenary session), 11th June 1973, No. 1672 . . . . . 562

- Jurisdiction* - Contract made by letter between an Italian and a German firm - Art. 4, No. 2, Code of Civil Procedure - Applicability thereof. *Genoa Court of Appeal*, 18th June 1973 . . . . . 157
- Jurisdiction* - Personnel of NATO forces - Art. VII, No. 3(c) London Convention 19th June 1951 - Law implementig same in Italy - Constitutional validity thereof: *Constitutional Court*, 27th June 1973, No. 96 . . . . . 505
- Jurisdiction* - Art. 3, Code of Civil Procedure - Irrelevance of pending proceedings abroad to determine jurisdiction - Arts. 24 and 52, Bankruptcy Law - Same do not derogate from above principle insofar as they relate solely to domestic jurisdiction - Art. 8 of Italo-Swiss Convention of 3rd January 1933 - Inapplicability thereof to bankruptcy matters: *Court of Cassation*, 5th July 1973, No. 1870 . . . . . 295
- Jurisdiction* - Ruling on jurisdiction - Art. 4, No. 2, Code of Civil Procedure - Liability to damages for precontractual injury - Place of the act giving rise to said liability: *Brescia Court of Appeal*, 23rd July 1973 . . . . . 149
- Jurisdiction* - Law on Divorce - Art. 4, Code of Civil Procedure - Parties resident abroad - Lack of an Italian Court with jurisdiction - Jurisdiction confirmed for all Italian courts: *Milan Tribunal*, 11th October 1973 . . . . . 304
- Jurisdiction* - Immunity of foreign States from civil proceedings for private acts - Exclusion therefrom - Same immunity in favour of specialized international Institutes - U.N. Resolution, 21st November 1947, and agreement between the Inter-Governmental Committee for European Migrations and Italy of 16th April 1952 - Exclusion of immunity - Contract of Service between said Committee and its employee - Said immunity applicable thereto: *Court of Cassation* (plenary session), 7th November 1973, No. 2910 . . . . . 579
- Jurisdiction* - Lack of jurisdiction - Arts. 37 and 100, Code of Civil Procedure - Relief available only to a foreign defendant with an interest in contesting the plaintiff's claim: *Brescia Court of Appeal*, 9th November 1973 . . . . . 306
- Jurisdiction* - Italian Court's jurisdiction over a divorce application - Consequent jurisdiction also over requests for the custody of children and right of access to them, under Art. 4, No. 2, Code of Civil Procedure, and by the criterion of connected jurisdiction - Art. 4, No. 4, Code of Civil Procedure - Applicability thereof when effect cannot be given in Italy to a foreign divorce decree: *Brescia Court of Appeal*, 9th November 1973 . . . . . 306
- Jurisdiction* - Agreement for arbitration abroad - Plea of lack of competence - jurisdiction also over requests for the custody of children and right of 10th June 1958 - Art. II thereof - Same attributes exclusive jurisdiction to foreign arbitrator - Applicability thereof to proceedings already in progress: *Court of Cassation* (plenary session), 10th November 1973, No. 2969 . . . . . 585
- Jurisdiction* - Jurisdiction reserved to the Ecclesiastic Authority under Art. 34 of the Concordat with the Vatican - Mandatory nature thereof - Law on Divorce not questionable constitutionally in giving the ordinary courts power to dissolve marriages celebrated under the Rites of the Concordat: *Constitutional Court*, 11th December 1973, No. 176 . . . . . 260



- Jurisdiction* - Foreign plaintiff - Art. 16, Preliminary Dispositions of the Civil Code - Condition of reciprocity - Hungarian firm - Para. 31 of Hungarian Law V of 1923 and Madrid Accords of 14th April 1891 on false trade descriptions on goods - Applicability of said Art: *Court of Cassation*, 14th December 1973, No. 3400 . . . . . 588
- Jurisdiction* - Contracts made or to be performed in Italy - Interpretation of Art. 4, No. 2, Code of Civil Procedure - Norms on jurisdiction in Brussels Convention of 27th September 1968 - Interim regime. *Court of Cassation* (plenary session), 4th January 1974, No. 1 . . . . . 315
- Jurisdiction* - Art. 4, No. 2, Code of Civil Procedure - Place of performance in the consignment of goods - Art. 1510, Civil Code: *Court of Cassation* (plenary session), 7th January 1974, No. 20 . . . . . 615
- Jurisdiction* - Art. 4, No. 3, Code of Civil Procedure - Proceeding authorizing sequestration in Italy - c.i.f. contract - Irrelevance for determining the place of performance of a consignment of goods, under Art. 4, No. 2, Code of Civil Procedure - Reference to *lex fori*: *Court of Cassation* (plenary session), 21st February 1974, No. 490 . . . . . 593
- Jurisdiction* - Implied submission by foreign defendant to Italian Court's jurisdiction - Sequestration of property in Italy: *Genoa Tribunal*, 6th March 1974 . . . . . 599
- Jurisdiction* - Reconfirmation of *Status* as officials or agents of Euratom - Exclusive jurisdiction of the Court of Justice of the European Communities - Lack of Italian Court's jurisdiction: *Varese Tribunal*, 30th March 1974 . . . . . 325
- Jurisdiction* - Contract of Service between a private citizen and the Order of Malta - Freelance publicist nature thereof - Equivalent status of the Order of Malta to a foreign State - Consequent immunity thereof from Italian jurisdiction: *Court of Cassation* (plenary session), 6th June 1974, No. 1653 . . . . . 607
- Jurisdiction* - Reconfirmation of *status* - Art. 4, No. 2, Code of Civil Procedure - Swiss defendant domiciled abroad - Art. 4, No. 4, Code of Civil Procedure - Reciprocity: *Sanremo Tribunal*, decree, 18th June 1974 . . . . . 612
- Limitation* - Limitation of claims under a transport contract - Proper Law - Art. 25, Preliminary Dispositions of the Civil Code - Applicability thereof: *Crotone Tribunal*, 13th February 1973 . . . . . 159
- Maintenance Obligations* - Duty to maintain a child who is neither recognized nor recognizable born abroad to an Italian citizen - Proper Law - Art. 25, para. 2, Preliminary Dispositions of the Civil Code - Law applicable that of the place where the event founding the obligation arose: *Court of Cassation*, 19th October 1972, No. 3133 . . . . . 98
- Maintenance Obligations* - Duty to maintain - Patrimonial, not family, nature thereof - Proper Law - Art. 25, para. 2, Preliminary Dispositions of the Civil Code - Law of the place of normal residence indicated by the 1956 and 1958 Hague Conventions - Same not contrary to Italian public policy: *Milan Court of Appeal*, 27th February 1973 . . . . . 275

- Marriage* - Canon marriage celebrated in France between Italians - Hague Convention of 17th July 1905 - Same also productive of civil status consequences in Italy: *Rome Tribunal*, 13th December 1971 . . . . . 164
- Matrimonial Property* - Art. 19, Preliminary Dispositions of the Civil Code - Proper law for patrimonial relations - To be the law of the husband's country - Contrast with Arts. 3 and 29 of the Constitution - Said consequences not manifestly unconstitutional: *Milan Conciliation Court*, order, 24th May 1974 . . . . . 604
- Nationalization* - Foreign nationalization law and their provisions on the continuing legal personality of nationalized undertakings - Need to take cognisance thereof under Art. 17, Preliminary Dispositions of the Civil Code: *Court of Cassation* (plenary session), 14th November 1972, No. 3368 . . . . . 101
- Personal Status and Capacity* - Foreigners - Finding of proper foreign law applicable according to Italian Private International Law - Foreign official acts immediately recognized in Italy: *Milan Tribunal*, 7th June 1973 . . . . . 146
- Treaties and General International Rules* - Hague Convention on Marriage of 17th July 1905 - Arts. 4 and 5 thereof: *Rome Tribunal*, 3rd December 1971 . . . . . 164
- Treaties and General International Rules* - New York Customs Convention of 4th June 1954 on the temporary import of foreign road vehicles - Consequences upon the recovery of expenses for the re-importation of a foreign vehicle damaged in Italy: *Venice Tribunal*, 17th March 1972 . . . . . 162
- Treaties and General International Rules* - Automatic harmonization of Italian Law with International Law and judgments implementing same - Law providing for implementation and Law authorizing ratification - GATT Accord - Convention whereby publication in the "Official Gazette" is the only evidence of ratification: *Court of Cassation* (plenary session), 22nd March 1972, No. 867 . . . . . 69
- Treaties and General International Rules* - GATT Accord - Implementing Order - Embodiment of same in Italian system - Ability not to apply second part of said Accord - Art. IV - Its value as a preceptive rule: *Court of Cassation* (plenary session), 17th April 1972, No. 1196 . . . . . 75
- Treaties and General International Rules* - International Accords - Need for implementing Order for them to be effective domestically - Clauses of adherence to Accords - Same neither require subsequent ratification nor implementing Orders if dependant on the unilateral will of the State concerned: *Court of Cassation* (plenary session), 17th April 1972, No. 1196 . . . . . 75
- Treaties and General International Rules* - Italo-Swiss Convention of 3rd January 1933 on the recognition of judgments - Swiss divorce decree - Applicability thereof: *Venice Court of Appeal*, 15th June 1972 . . . . . 344
- Treaties and General International Rules* - New York Convention of 20th June 1956 and Hague Convention of 15th April 1958 on the recognition of maintenance obligations - Applicability thereof: *Court of Cassation*, 19th October 1972, No. 3133 . . . . . 98
- Treaties and General International Rules* - Judicial immunity of foreign States - Applicable only to their sovereign acts: *Court of Cassation* (plenary session), 14th November 1972, No. 3368 . . . . . 101

- Treaties and General International Rules* - Hague Convention of 12th June 1902 on Divorce - Art. 5 thereof - Criteria founding jurisdiction: *Cremona Tribunal*, 2nd February 1973 . . . . . 269
- Treaties and General International Rules* - Convention of 25th October 1953 on carriage of goods by rail (C.I.M.) - Art. 1 thereof - Prerequisites for application of said Convention: *Court of Cassation*, 12th February 1973, No. 423 . . . . . 519
- Treaties and General International Rules* - Italo-French Convention of 3rd June 1930 - Same regulates jurisdiction only in relation to the enforcement of foreign judgments and contains no norms on jurisdiction generally: *Court of Cassation* (plenary session), 14th February 1973, No. 455 . . . . . 522
- Treaties and General International Rules* - Extradition Treaty of 12th March 1870, between Italy and France - Crime committed in France by an Italian citizen - Inapplicability of said Treaty thereto: *Court of Criminal Cassation*, 14th February 1973 . . . . . 626
- Treaties and General International Rules* - Italo-German Convention of 9th March 1936 on the execution of judgments - Arts. 1, 3 and 13 thereof - German dissolution of a marriage between Italians - Applicability thereof: *Palermo Court of Appeal*, 23rd February 1973 . . . . . 355
- Treaties and General International Rules* - Italo-Swiss Convention of 3rd January 1933 - Art. 2, No. 3 thereof - Submission by defendant to Swiss Court's jurisdiction - Art. 12, No. 1, said Convention - Concept of residence - Meaning of term "autorisée à avoir un domicile séparé": *Court of Cassation*, 15th March 1973, No. 738 . . . . . 526
- Treaties and General International Rules* - New York Convention of 10th June 1958 on the recognition of foreign arbitral awards - Arbitral agreements - Requisites thereof: *Turin Court of Appeal*, 30th March 1973 . . . . . 126
- Treaties and General International Rules* - London Convention of 19th June 1951 on the legal position of N.A.T.O. armed forces - Civilian employed by the U.S. Army - Applicability of said Convention to such case: *Venice Court of Appeal*, 19th April 1973 . . . . . 352
- Treaties and General International Rules* - European Convention on Human Rights - Art. 5, No. 5, and No. 1(c) thereof - Compensation for preventive detention - Inapplicability thereto: *Rome Tribunal*, 15th May 1973 . . . . . 281
- Treaties and General International Rules* - Peace Treaty between Italy and the Allied Powers, 10th February 1947 - Art. 78 thereof - Its authoritative interpretation by Art. 1 of Law of 11th June 1971, No. 441 - Tax exemption for Italian citizens of Jewish extraction: *Court of Cassation*, 17th May 1973, No. 1417 . . . . . 619
- Treaties and General International Rules* - International norm established by pact - Its recognition and enforcement within Italy by means of the order of execution - Contrast with a norm of a formal law: *Court of Cassation* (plenary session), 21st May 1973, No. 1455 . . . . . 552
- Treaties and General International Rules* - G.A.T.T. Agreement - Art. 2 thereof - Customs laws different from border laws - Regulation of same - Relations

- between G.A.T.T. Agreement and the Amending Protocols of 1955: *Court of Cassation* (plenary session), 21st May 1973, No. 1455 . . . . . 552
- Treaties and General International Rules* - Geneva Protocol of 24th September 1923 and New York Convention of 10th June 1958 on arbitration - Application for recognition in a pending action of a foreign award - Applicability thereto: *Bari Court of Appeal*, 30th May 1973 . . . . . 285
- Treaties and General International Rules* - Charter of the European School, signed at Luxemburg on the 12th April 1957 - Regulation of personnel of said School - Same not exclusive of Italian personnel: *Council of State, Session IV*, decision of 19th June 1973, No. 661 . . . . . 289
- Treaties and General International Rules* - G.A.T.T. Agreement - Second Part thereof - Order of execution with the *stand-still* Clause - Art. IV thereof - Its preceptive nature: *Venice Court of Appeal*, 22nd June 1973 . . . . . 631
- Treaties and General International Rules* - Art. VII, No. 3(c) London Convention of 19th June 1951 - Law implementing same in Italy - Constitutional validity thereof: *Constitutional Court*, 27th June 1973, No. 96 . . . . . 505
- Treaties and General International Rules* - Italo-Swiss Convention of 3rd January 1933 on the execution of judgments - Pending proceedings - Art. 8, said Convention - Inapplicability thereof to bankruptcy matters: *Court of Cassation*, 5th July 1973, No. 1870 . . . . . 295
- Treaties and General International Rules* - London Convention of 19th June 1951 on the status of N.A.T.O. Armed Forces - Damage to third persons caused by civil or military personnel - Duty to compensate same - Prerequisites therefor - Art. VIII, paras. 5 and 8, said Convention - Arbitration prescribed therein between the States of origin and residence when lawsuits arise: *Court of Cassation* (plenary session), 5th July 1973, No. 1895 . . . . . 567
- Treaties and General International Rules* - Italo-Swiss Convention of 3rd January 1933 on the execution of judgments - Swiss judgment on a tortious liability arising in Switzerland - Jurisdiction of Swiss Court: *Genoa Court of Appeal*, 16th July 1973 . . . . . 163
- Treaties and General International Rules* - Brussels Convention of 13th September 1910 - Assistance by Italian ships to a Somali ship - Ratification by Italy of said Convention in 1934 covering also the Colony of Somalia - Failure of Socialist Republic of Somalia to confirm said ratification - Inapplicability of said Convention: *Arbitral Award at Genoa*, 22nd October 1973 . . . . . 573
- Treaties and General International Rules* - Brussels Convention of 23rd September 1910 - Assistance and salvage by Italian tugs to a Greek ship in Italian territorial waters - Applicability of said Convention: *Arbitral Award at Genoa*, 4th November 1973 . . . . . 575
- Treaties and General International Rules* - Accord of 16th April 1953 between the Inter-Governmental Committee for European Migrations and Italy - Question of judicial immunity - Accord does not contain specific norms but refers back to the U.N. General Assembly Resolution of 21st November 1947: *Court of Cassation* (plenary session), 7th November 1973, No. 2910 . . . . . 579

- Treaties and General International Rules* - Art. 5 of Law of 14th January 1937, No. 106, implementing in Italy the Italo-German Convention of 9th March 1936 - Question of its constitutional invalidity relative to Arts, 11, 25 and 80 of the Constitution - Said question manifestly unfounded: *Court of Cassation*, 8th November 1973, No. 2920 . . . . . 582
- Treaties and General International Rules* - New York Convention of 10th June 1958 - Art. II thereof - Same attributes exclusive jurisdiction to foreign arbitrator - Applicability thereof to proceedings already in progress: *Court of Cassation* (plenary session), 10th November 1973, No. 2969 . . . 585
- Treaties and General International Rules* - Hague Convention of 12th June 1902 on Marriage - Art. 5 thereof - Religious mode of marriage required as a constituent factor: *Milan Court of Appeal*, 30th November 1973 . . . . . 312
- Treaties and General International Rules* - Madrid Accords of 14th April 1891 on false statements as to the origin of goods - Ratification thereof by Italy and Hungary in texts differently worded - Effects thereof: *Court of Cassation*, 14th December 1973, No. 3400 . . . . . 588
- Treaties and General International Rules* - Brussels Convention of 27th September 1968 on jurisdiction and the execution of judgments - Art. 54 thereof - Interim arrangements for actions commenced before it comes into force: *Court of Cassation* (plenary session), 4th January 1974, No. 1 . . . . . 315
- Treaties and General International Rules* - Peace treaty between Italy and the Allied Powers, 10th February 1947 - Art. 78 thereof - Its authoritative interpretation by Art. 1 of Law of 11th June 1971, No. 441 - Tax exemption for Italian citizens of Jewish extraction: *Court of Cassation*, 10th January 1974, No. 73 . . . . . 621
- Treaties and General International Rules* - E.E.C. Treaty and Community Regulations - Prevalence thereof over domestic Italian norms, even those of a constitutional nature: *Naples Court of Appeal*, 18th March 1974 . . . 623
- Treaties and General International Rules* - Hague Conventions of 1956 and 1958 on maintenance obligations - Actions relating only to the *status* of the minor - Inapplicability thereof: *Sanremo Tribunal*, decree, 18th June 1974 . . . 612

#### CASES IN THE COURT OF THE EUROPEAN COMMUNITIES

- I. TELCHINI, Cases in the Court of Justice of the European Communities (July-December 1973) . . . . . 634

#### CASES IN FOREIGN COURTS

- European Economic Community* - Social security of migrant workers - Accumulation of periods of cover - Limits of application thereof: *Cour d'Appel de Lyon* (Bosonotto v. C.P.A.M.), 11th April 1973 . . . . . 683
- European Economic Community* - Equality of treatment for migrant workers - Limits thereto - Need for mutual relationship between the benefit and the

employee-position of the beneficiary: <i>Tribunal de Grande Instance de Paris</i> (Fiorini v. Société Nationale de Chemins de Fer Français), 8th November 1973 . . . . .	686
<i>Jurisdiction</i> - Divorce between Italians - Jurisdiction of German Court - Common domicile of spouses - Arts. 3 and 13 (third para.) of the 1936 Italo-German Convention on the execution of judgments. <i>Oberlandesgericht Saarbrücken</i> , 26th June 1973 . . . . .	168

## DOCUMENTS

Convention between Italy and Great Britain on the recognition and execution of judgments in civil and commercial matters and protocol amending same (Rome, 7th February 1964 and 14th July 1970) . . . . .	174
New Swiss rules on crimes committed on board aircraft . . . . .	182
Consular Convention between the Republic of Italy and the U.S.S.R., with an additional Protocol (Moscow, 16th May 1967) . . . . .	357
Convention on the Uniform Law on the form of an international will . . . . .	368
Consular Convention between the Republic of Italy and the Popular Republic of Bulgaria (Rome, 21st February 1968) . . . . .	689
Convention between Italy and Austria for the recognition and execution of judgments in civil and commercial matters, of judicial transactions and public act (Rome, 16th November 1971) . . . . .	705
Modifications to Art. 2, Code of Navigation . . . . .	709

## CURRENT EVENTS AND RECENT DEVELOPMENTS

<i>The Compass Rose</i> - Appointment of foreigners to University teaching posts: a strange recourse to reciprocity by analogy (t. t.) . . . . .	374
<i>Legislative, Judicial and International Practice</i> - The work of the Sixth Session of Uncitral - State of ratifications of the Hague Conventions currently in force - Diplomatic conference on pollution of the sea - United States Bill on the judicial immunity of foreign States - Absence of limitation periods for crimes against humanity - French ratification of the European Convention on human rights - Legalization of signatures on the documents of regional organs to be valid abroad . . . . .	184
<i>Legislative, Judicial and International Practice</i> - The "Telebiella" case at the European Commission of Human Rights - Code of conduct of the "Conférences maritimes" adopted at the United Nations Conference . . . . .	376
<i>Legislative, Judicial and International Practice</i> - The European Ministers of Justice and access to the Courts in civil matters - Exchange of notes between Italy and Austria on the reciprocal recognition of academic titles - The European Convention on the social protection of farmers -	

Divorce in Luxembourg of an Italian woman - Work in progress at UNIDROIT - Council of Europe's experts committee on producers' liability - Agreements in simplified form between Italy and URRSS - The French ratification to the European Convention on Human Rights deposited	710
<i>Parliamentary Debates</i> - Italy and international conventions on citizenship - On the right of election between Italian and Yugoslav citizenship - On the Vienna Convention on treaty law . . . . .	192
<i>Parliamentary Debates</i> - Judgments of the Court of Cassation on the G.A.T.T. Agreement and the attitude of the Treasury . . . . .	378
<i>Parliamentary Debates</i> - Italy and the European Convention on Adoption - The new extradition treaty with the U.S.A. - Towards the Italian ratification of the European Social Security Code - Italy and the Law of the Sea - On the delimitation of the sea-bed between Italy and France - The European Communities and the Italian workers in Switzerland . . . . .	713
<i>Notices</i> - Accord between the lawyers' associations of Milan and Paris - Election of four judges to the European Court of Human Rights - The VIIIth Round Table at Genoa on Community Law . . . . .	197
<i>Notices</i> - Elections in the European Court of Human Rights - "Factories" of Accademic Titles - Homage to Henri Rolin - The 8th Genoa Round Table on European Law - The 5th Congress of the Italian and German lawyers - Activities of the Padoa Center for European Studies . . . . .	718

#### BOOK REVIEWS

(See Italian Index)

---

Registrazione presso il Tribunale di Milano al n. 6418 in data 26-11-1963

*Direttore responsabile:* prof. avv. MARIO GIULIANO

LINOTIPIA VERONESE FIORINI - VERONA