INDEX

2000 Contractor

ARTICLES

R. CAFARI PANICO, Connections between the sphere of application of the Law on Special Adoption and the area of jurisdiction	480
S. M. CARBONE-P. VERRUCOLI, Italian legal provisions dealing with the pro- tection of investments	681
B. COSTANTINO, Public registration in Italy of foreign legal provisions affecting matrimonial property	36
R. DE Nova, The content of substantive rules under the jurisdiction-selecting approach	241
R. DE Nova, When is a contract « international »?	665
B. DUTOIT, The Thirteenth Session of the Hague Conference on Private Inter- national Law dealing with Family Law (in French)	449
S. LABRIOLA, Summonses served abroad and the rights of the defence	705
A. MIGLIAZZA, Divorce in Italy and its influence upon Italo-Austrian relations	251
F. POCAR, The Protocol on the uniform interpretation of the Brussels Conven- tion on jurisdiction and the execution of judgments	281
A. TIZZANO, Contractual capacity of European Communities in the field of Private Law	5

REVIEWS

R. VARGAS-HIDALGO, Problems of the Andean Pact			296
--	--	--	-----

SHORTER ARTICLES, NOTES AND COMMENTS

G. CANSACCHI, Recognition and enforcement of a judgment of a non-territorial «Sovereign» body	332
G. FERRANTI, The Conference on security and co-operation in Europe: Indica- tions on the treaty-making power of the E.E.C.	734
P. Fors, The Treaty of Rome as a «framework treaty»: the position of the Court of Justice of the European Communities	61
M. GIULIANO, Information system and international treaties	335
F. MATSCHER, Compatibility of the period allowed to enter an appearance by a foreign court, with Italian norms	328

VOLUME :	XIV	- 1978	3 -	INDEX
----------	-----	--------	-----	-------

F. MOSCONI, Contrast between E.E.C. regulations and subsequent domestic regulations: Possible developments following Judgment 106/77 of the Court of Justice	515
M. PISANI, Points of departure for international collaboration in the field of fiscal offences	53
G. RASTRELLI, The E.E.C. Commission's powers of enquiry within the territory of a third State	752
A. ROTTOLA, Implicit submission to the Courts jurisdiction under the Brussels Convention of 27th September, 1968	521
M. T. SPAGNOLETTI ZEULI, The new German Law on general conditions of con- tract and Private International Law	530
T. TREVES, The abrogation in USA of prohibitions on dealing in gold	55

IN MEMORIAM

М.	GIULIANO,	Rodolfo	De	Nova	(1906-1978)						•			759
----	-----------	---------	----	------	-------------	--	--	--	--	--	---	--	--	-----

CASES IN ITALIAN COURTS

Adoption - Italian minor born and resident abroad - Confirmation of his status as an abandoned child and suitability for adoption - Criteria establishing jurisdiction: Court of Cassation (plenary session), 4th August, 1977, No. 3464	607
Adoption - Special adoption - Age limits for the adopting party laid down in Art. 314/4, Civil Code - Abrogation thereof by Art. 3 of the Strasbourg European Convention on the adoption of minors: Bologna Juvenile Tri- bunal, 11th January, 1978	609
Bankruptcy - Foreign company with a registered office abroad - Criteria to esta- blish jurisdiction for an Italian adjudication in bankruptcy: Naples Tri- bunal, 27th March, 1975	611
Citizenship - Loss of Citizenship - Art. 12 of the Law of 13th June 1912, No. 555 on Citizenship - Instance thereof: Council of State, Session I, Opinion of 24th October 1975	413
Citizenship - Art. 7 of Law of 13th June 1912, No. 555 - Dual nationality - Requisites therefor: Milan Tribunal, 14th July 1977 .	121
Citizenship - Art. 1, No. 2 of the Law of 13th June, 1912, No. 555 on Citizenship - Contrast thereof with Art. 3 of the Italian Constitution - Consequent question of its constitutional invalidity not manifestly unfounded: Florence Juvenile Tribunal, Order of 23rd January, 1978.	593
Citizenship - Art. 10, para. 3, of the Law of 13th June, 1912, No. 555 - Loss of Italian citizenship by a woman married to a foreigner - Declaration of	

of Italian citizenship by a woman married to a foreigner - Declaration of the constitutional invalidity of such rule and its subsequent abrogation -

61. Rivista di diritto internazionale privato e processuale. 1978 - N. 4.

Interim period of its enforcibility: <i>Court of Cassation</i> , 23rd February, 1978, No. 903 .	814
Civil Procedure - Action to enforce a foreign judgment - Limitation - Art. 2946, Civil Code - Applicability thereof: Court of Cassation, 9th May 1977, No. 1777	354
Civil Procedure - Power to order protective seizure of goods in a dispute refer- red to foreign arbitration - Power of the arbitrators - Exclusion under Art. 818, Code of Civil Procedure - Applicability of Art. 672, para. 3, Code of Civil Procedure - Power of the Pretore or the President of the Tribunal of the place of the seizure: Court of Cassation, 23rd June 1977, No. 2662	370
Civil Procedure - Judgments recognising foreign divorces - Powers of the Pub- blico Ministero to appeal against same - Admissibility thereof: Court of Cassation, 8th July 1977, No. 3037	399
Civil Procedure - Judgments recognising foreign divorces - Powers of the Pub- blico Ministero to appeal against same - Admissibility thereof: Cout of Cassation, 8th July 1977, No. 3040	400
Civil Procedure - Judgments recognising foreign divorces - Powers of the Pub- blico Ministero to appeal against same - Admissibility thereof: Court of Cassation, 28th July 1977, No. 3361.	401
Civil procedure - Petition for enforcement of a foreign judgment - Basis the- refor - Same derives from the foreign judgment and that of an Italian Court of Appeal: Milan Tribunal, 19th September 1977	124
Civil Procedure - Judgments recognising foreign divorces - Powers of the Pub- blico Ministero to appeal against same - Admissibility thereof: Court of Cassation, 24th September 1977, No. 4061.	404
Civil Procedure - Action to enforce foreign judgment - Transferability of the action for recognition - Validation of the same action in divorce matters: Court of Cassation, 15th November, 1977, No. 4971.	803
Civil Procedure - Summons abroad - Art. 143, last para., Code of Civil Proce- dure - Failure to confirm the impossibility of carrying out the summons in accordance with international conventions and the rules of Consular functions - Constitutional invalidity thereof relative to Art. 24 of the Italian Constitution: Constitutional Court, 2nd February, 1978, No. 10.	549
Civil Procedure - Judgment enforcing foreign arbitral awards - Concept of default through failure to enter an appearance under Art. 798 Code of Civil Procedure - Inadmissibility of a review of the merits of the case: Court of Cassation, and February, 1978, No. 459.	597
Civil Procedure - Summons served abroad - An address used different from that of the person served - Nullity of said summons: Court of Cassation, 5th April, 1978, No. 1560	824
Contract - Pecuniary obligations - Sum in Poincaré gold-francs under the Warsaw Convention of 12th October 1929 on international carriage by air - Criteria applicable thereto: <i>Milan Tribunal</i> , 25th October 1976	
Contract - Contract of Employment with foreigners - Incidence of Art. 145 t.u.l.p.s. and Art. 2, Decree Law of 11th February 1948, No. 50 - Failure	

to register foreign employee by employer - Validity and enforceability of the Employment Contract: <i>Milan Tribunal</i> , 10th February 1977	416
Contract - Currency regulations affecting payments by Italians to persons not resident in Italy - Limits to invocation thereof to justify debtor's failure to pay: Milan Tribunal, 19th September 1977	124
Contract - Contractual payment expressed in foreign currency - Art. 1278, Civil Code - Consequences of devaluation of the foreign currency in a case of mora debendi: Court of Cassation, 5th November, 1977, No. 4704	79 5
Contract - Contract of Employment made in Italy and performed abroad - Art. r, Royal Decree Law 4th October 1935, No. 1827 - No obligation of I.N.P.S. to make social security payments - Question of constitutional validity of said rules relative to Arts. 3, 35 and 38 of the Italian Constitution not manifestly unfounded: <i>Milan Tribunal</i> , Order of 8th November 1977	384
Contract - Relations between parents and children - Art. 20 of the Preliminary Dispositions of the Civil Code - Contrast thereof with Arts 2 and 3 of the Italian Constitution - Question of the Constitutional invalidity thereof not manifestly unfounded: Florence Juvenile Tribunal, Order of 23rd Ja- nuary, 1978	593
Contract - Contract of employment between NA.T.O. Headquarters and local civilian employees - Same to be governed by Italian Law: Court of Cassation, 6th February, 1978, No. 518	809
Diplomatic and Consular Officials - Powers and functions of Consuls relative to minors resident in their district - Art. 34, Presidential Decree of 5th January, 1967, No. 200 - Care and guardianship - Supervisory powers under Art. 6 of the Law on Divorce - Admissibility thereof: Court of Cassation, 16th May, 1977, No. 1965	568
Divorce - Art. 6, Law on Divorce - Supervisory powers of the Court safeguarding minors' interests - Exercise thereof by Consuls for a minor resident abroad - Admissibility thereof: Court of Cassation, 16th May, 1977, No. 1965	568
Divorce - Foreign divorce on a petition of the foreign spouse and cross-peti- tion of the Italian spouse - Art. 3, No. 2e of the Law on Divorce - Appli- cability thereof: <i>Milan Tribunal</i> , 9th January, 1978	588
Divorce - Foreign divorce on a petition of the foreign spouse and cross-petition of the Italian spouse - Art. 3, No. 2e of the Law on Divorce - Inapplica- bility thereof: <i>Milan Tribunal</i> , 6th February, 1978	602
Duties and Taxation - Taxation immunity of States in relation to publicity activities - Customary international rule - Art. 10, para. 1, of the Italian Constitution - Enforcibility of the rule also to the Sovereign Military Order of Malta: Court of Cassation, 3rd May, 1978, No. 2051	829
E.C Community regulations - Subjective juridical position in Community rules - Qualification thereof by the national Court - Subjective rights - Exclusion thereof - Lawful interests - Confirmation thereof: Court of Cassa- tion (plenary session), 26th April, 1977, No. 1545	613
FC Compatible states and the delivertities	

E.C. - Community regulations contrasting with domestic legal provisions -Immediate applicability of the former - Constitutional invalidity of subse-

quent domestic legal provisions - Incompatibility therewith: Constitutional Court, 29th December, 1977, No. 163	762
Extradition - Ordinary rule on preventive custody - Inapplicability thereof to extradition proceedings - Warrant for arrest issued under Art. 663, Code of Criminal Procedure - Special nature thereof relative to provisions on jurisdiction and of individual liberty laid down in Art. 272, Code of Crimi- nal Procedure: Court of Cassation, 14th May 1976	409
Extradition - Warrant for the arrest of a person to be extradited - Special nature thereof - Right to appeal against same - Inadmissibility thereto: Court of Cassation, 1st June 1976	411
Extradition - Italo-French Extradition Convention of 12th May 1870 - Possibility of extraditing for French capital offences - Question whether same constitu- tionally valid relative to Arts. 3, 10 (para. 1) and 27 of the Italian Constitu- tion - Said question not manifestly unfounded: <i>Turin Court of Appeal</i> , Order of 6th July 1977	372
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Foreign arbitral award - New York Convention of 10th June 1958 on the recognition and enforcement of foreign arbitral awards - Require- ments thereunder: Messina Court of Appeal, 19th May 1976	77
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Judgment imposing maintenance obligations in favour of children who are minors - International rules applicable thereto - Severance as between the parts of the judgment concerning the family relationship and those imposing maintenance obligations: Court of Cassation, 29th November 1976, No. 4498	106
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Foreign judgments imposing maintenance payments in favour of minors - Severance of parts thereof - Effect thereon of International Conven- tions in the same field: Court of Cassation, 16th December 1976, No. 4651	110
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Foreign arbitral award - New York Convention of 10th June 1958 - Conditions for recognition of said award: Court of Cassation, 20th January (1977, No. 272	341
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Foreign legal provision - Classification thereof on the basis of Italian Law - Said provision identical in form and substance to its Italian equi- valent - Extradition thereof - Foreign courts order as to maintenance payments - Nature thereof as a judgment - Requirements therefor - Condi- tions for its enforcement by an Italian Court: Court of Cassation, 14th February 1977, No. 657	, 351
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Swedish Court's Maintenance Order made prior to Sweden's ratifica- tion of the Hague Convention of 15th April, 1958 - Applicability of said Convention: Court of Cassation, 4th April 1977, No. 1279	565
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Requirements therefor - Suitability of foreign judgment for producing legal consequences in the Italian system - Eritrean judgment finding a canon	

•

marriage between Italians at Asmara devoid of civil effect - Unsuitability of said judgment for recognition in Italy: <i>Court of Cassation</i> , 9th June 1977, No 2371	571
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Swedish paternity judgment and order as to maintenance - Request for partial enforcement thereof - Admissibility thereof: Court of Cassation, 6th October 1977, No. 4254	780
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Civil marriage by Italians abroad - Recognition thereof independently of its registration in Italy: Court of Cassation, 12th October 1977, No. 4340	785
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - British judgment - Declaration confirming same under the Brussels Convention of 27th September 1968 - Error in applying same - Available remedies - Opposition thereto under Arts. 36 and 37, said Convention: Court of Cassation, 27th October 1977, No. 4617	382
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Transferability of the action for recognition - Validation for the same action in divorce matters: Court of Cassation, 15th November 1977, No. 4971	803
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Compatibility of time to enter an appearance allowed by foreign court - Art. 7, No. 3 of the Italo-Austrian Convention of 16th November 1971 - Incompatibility of a period of sixteen days: Florence Court of Appeal, 19th December 1977	389
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Provision by the juridical organ of the Sovereign Military Order of Malta - Nature thereof as a judgment of a foreign State - Art. 796 et seq. Code of Civil Procedure - Applicability thereof: Rome Court of Appeal, 23rd January 1978	392
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Foreign divorce on grounds not capable of objective confirmation by the foreign court - Contrast thereof with Art. 797, No. 7, Code of Civil Procedure - Impossibility of recognising same in Italy: Trieste Court of Appeal, 23rd February 1978	395
Foreign Judgments and Administrative Acts - Recognition and enforcement in Italy - Requirements therefor - Necessary enquiries proceeding examination of the substantive merits of the judgment - Jurisdiction of the Italian Court - Criterion of lex loci contractus pleaded in the proceedings or other criteria derived from the contract: Brescia Court of Appeal, 15th June 1978	840
Foreign Law - Principle iura novit curia - Functions of the Judge: Court of Cassation, 23rd February 1978, No. 903	815
Foreigner - Foreign employee of Italian employer - Duty of latter to register said employment - Art. 145 t.u.l.p.s. and Art. 2, Decree Law of 11th February 1948, No. 50 - Applicability thereof: <i>Milan Tribunal</i> , 10th February 1977	416
Foreigner - Foreign juridical persons - Art. 16 Preliminary Dispositions of the Civil Code - Applicability thereof - Anstalt of Liechtenstein - Recognition of juridical personality thereof on the basis of the 1933 Italo-Swiss Trade	

Treaty, extended to Liechtenstein - Public policy - Contrast with Art. 31 Preliminary Dispositions of the Civil Code - Validity of said recognition: <i>Court of Cassation</i> , 28th July 1977, No. 3352	377
Form of Deeds - Art. 26, Preliminary Dispositions of the Civil Code - Require- ments for the validity of a clause providing for arbitration abroad: Court of Cassation (plenary session), 25th January 1977, No. 361	118
Form of Deeds - Art. 26, Preliminary Dispositions of the Civil Code - Con- necting criteria - Arbitration clause providing for arbitration abroad - Applicability of said Art. 26 and not of Art. 27, idem: Court of Cassation (plenary session), 8th November 1977, No. 4082	93
Judicial Separation - Art. 17 of the Preliminary Dispositions of the Civil Code - Applicability thereof - Swiss Law - Parental authority of both separated spouses over their children - Exercise thereof - Compatibility thereof with the disciplines under Arts. 316 and 155, Italian Civil Code: Court of Cassation, 25th June 1977, No. 2715	573
Jurisdiction - Bankruptcy adjudication of a foreign company - Criteria establishing jurisdiction - Art. 9, Law on Bankruptcy - Rule establishing territorial jurisdiction - Art. 4, Code of Civil Procedure - Rule establishing Court's authority: Naples Tribunal, 27th March 1975	611
Jurisdiction - Action by purchaser for a reduction in price as compensation for defects and counter-claim by vendor for the contractual price - lis pendens - Art. 21, Brussels Convention of 27th September 1968 - Not applicable to such a dispute - Art. 22, idem applicable thereto: Bassano del Grappa Tribunal, 13th February 1976	74
Jurisdiction - Criteria therefor - Art. 23, Preliminary dispositions of the Civil Code - Same does not impose jurisdictional criteria: Court of Cassation, 14th October 1976, No. 3438	81
Jurisdiction - Criteria therefor - Art. 4, No. 3, Code of Civil Procedure - Jurisdiction in related matters - Its nature and content: Court of Cassation (plenary session), 18th October 1976, No. 3544	82
Jurisdiction - Arbitration clause providing for arbitration abroad - New York Convention of 10th June 1958 - Applicability thereof: Court of Cassation (plenary session), 8th November 1976, No. 4082	93
Jurisdiction - Art. 4, Code of Civil Procedure - Italian defendant - Confirmation of Italian Courts' jurisdiction - Property sited in Italy - Confirmation of Italian jurisdiction relative thereto - Consequences upon jurisdiction of a foreign legal provision contrary to domestic and international public policy: Court of Cassation (plenary session), 10th November 1976, No. 4116	98
Jurisdiction - Art. 4, No. 2, Code of Civil Procedure - Dispute over insurance payments on a policy effected abroad by foreigners - Damage to the insured property occurring in Italy - No Italian jurisdiction relative thereto - Art. 4, No. 3, Code of Civil Procedure - Connceting factors: Court of Cassation (plenary session), 20th November 1976, No. 4358	100
Jurisdiction - Arbitration agreed under the Accord between the Polish Director for Foreign Trade and the Italian Association for Arbitration - Sames does not constitute Arbitration - No derogation thereunder from Italian jurisdic- tion: Court of Cassation (plenary session), 20th November 1976, No. 4361	339

Jurisdiction - NATO employees under Art. IX of the London Convention of 19th June 1951 - Confirmation of Italian jurisdiction over disputes between such employees and NATO: Court of Cassation (plenary session), 25th January 1977, No. 355	114
Jurisdiction - Derogation from Italian jurisdiction - Clause providing for arbitra- tion abroad - Requirements for validity thereof - International Law pro- visions applicable thereto: Court of Cassation (plenary session), 25th January 1977, No. 361	118
Jurisdiction - Activity of N.A.T.O. military bases in Italy - Exercise of Sovereign powers thereunder - Italian jurisdiction not applicable thereto - Contracts of Employment between N.A.T.O. organs and local Italian employees - Confirmation of Italian jurisdiction relative thereto: Court of Cassation (plenary session), Judgment of 27th January 1977, No. 400	346
Jurisdiction - Agreement derogating from Italian jurisdiction - Specific approval thereof by registration - Art. 1341, Civil Code - Same not necessary where each page of the basic contract is signed - Arts. 2 and 4, Nos. 1 and 2, Code of Civil Procedure - Application thereof excluded by Art. 3 of the Brussels Convention of 27th September, 1968: Padua Tribunal, 31st March 1977.	559
Jurisdiction - Art. 4, No. 3, Code of Civil Procedure - Connecting criteria - Derogation from Italian jurisdiction - Arbitration clause - Written form - Need therefor under Art. 2, Code of Civil Procedure and Art. 2 of the New York Convention of 10th June 1958: Milan Tribunal, 19th May 1977	360
Jurisdiction - Immunity of diplomatic agents from civil process and orders thereunder - Art. 31 of Vienna Convention of 18th April 1961 - Contrast thereof with Arts. 2, 3, 10, 11, 24 and 102 of the Italian Constitution - Question of Constitutional invalidity thereof not manifestly unfounded: Rome Tribunal, Order of 27th May 1977	365
Jurisdiction - Agreement for arbitration abroad - Power to order precautionary seizure of property - Power of arbitrators - Exclusion thereof under Art. 818, Code of Civil Procedure - Determination of powers under Art. 672, para. 3, Code of Civil Procedure - Power of the <i>Pretore</i> or of the President of the Tribunal of the place of seizure: Court of Cassation, 23rd June 1977, No. 2662	370
Jurisdiction - Art. 4, No. 3, Code of Civil Procedure - Connection by subjective consolidation - Requirements therefor: Court of Cassation (plenary session), 27th June 1977, No. 2752	576
Jurisdiction - Italian minor born and resident abroad - Confirmation of his status as an abandoned child and suitability for adoption - Art. 4, Code of Civil Procedure - Confirmation of Italian jurisdiction - Identification of the Court having jurisdiction - Criteria therefor: Court of Cassation (plenary session), 4th August, 1977, No. 3464	607
Jurisdiction - Agreement derogating from Italian jurisdiction in favour of arbitra- tion abroad - Written form thereof - Art. 56 of Royal Decree of 21st June 1942, No. 929 - The same only concerns actions for the protection of trade marks - Attraction of articles related to arbitral jurisdiction connected with those for the jurisdiction of the domestic courts - Same does not apply to provisions for foreign arbitration: Court of Cassation (plenary session), aret benchmer 1077, No. 2080.	773
15th September 1977, No. 3989	772

Contraction of the second

*

Jurisdiction - Contract of employment between an Italian citizen and N.A.T.O. administration - Art. IX, No. 4 of the London Convention of 19th June	
1951 - Character as local labour - Confirmation of Italian Court's jurisdic- tion: Court of Cassation (plenary session), 14th October 1977, No. 4372	585
Jurisdiction - Contract of employment between a private citizen and C.I.H.E.A.M Work of the employee not connected with the public function of said undertaking - Jurisdiction of the Italian court: Court of Cassation, 21st October 1977, No. 4502	789
Jurisdiction - Judicial immunity of foreign consul - Vienna Convention of 24th April 1963 - Opposition to an injunction carrying pecuniary sanctions in Art. 9 of the law of 3rd May 1967, No. 317 - Admissibility thereof: Court of Cassation (plenary session), 10th November 1977, No. 4834	798
Jurisdiction - Brussels Convention of 27th September 1968 - Art. 5, No. 1 thereof - Criteria establishing jurisdiction - Place where performance has been or should be executed - Determination thereof under the Private International Law of the State where proceedings are brought - Relevance thereto of Art. 25, Preliminary Dispositions of the Civil Code: Court of Cassation (plenary session), 10th November 1977, No. 4836	386
Jurisdiction - Art. 4, para. 1, Law on Divorce - Rules for jurisdiction - Deroga- tion from Art. 4, Code of Civil Procedure: Milan Tribunal, 9th January 1978	588
Jurisdiction - Art. 5 of the Brussels Convention of 27th September 1968 - International sale of goods - Application of Art. 59 of the Hague Conven- tion of 1st July 1964: Turin Tribunal, 16th January 1978	590
Jurisdiction - Art. 4, para. 1, Law on Divorce - Rules for jurisdiction - Degoration from Art. 4, Code of Civil Procedure: Milan Tribunal, 6th February 1978	602
Jurisdiction - Disputes on the relations between N.A.T.O. Headquarters and local civilian employees - Confirmation of Italian Court's jurisdiction: Court of Cassation, 6th February 1978, No. 518	809
Jurisdiction - International pending action - Art. 21 of the Brussels Conven- tion of 27th September 1968 - Action for payment under a contract and action quanti minoris - Derogation from Italian jurisdiction - Art. 17, said Convention - Significance of « written contractual term »: Milan Court of Appeal, 26th September 1978	844
Marriage - Canon marriage between Italians in Eritrea - Its invalidity as a marriage according to the rites of the Concordat under the Eritrean system - Exclusion thereof: Court of Cassation, 9th June 1977, No. 2371	57 I
Marriage - Civil marriage of Italians abroad - Recognition thereof in Italy regardless of its registration in Italy - Registration of a foreign marriage - Requirements therefor: Court of Cassation, 12th October 1977, No. 4340	785
Public Policy - Foreign legal provision contrary to domestic and international public policy - Consequences thereof upon Italian Courts' jurisdiction: Court of Cassation (plenary session), 10th November 1976, No. 4116	98
Public Policy - Recognition of the juridical personality of the Anstalt of Liechtenstein - Art. 31 of the Preliminary Dispositions of the Civil Code - Same not contrary to Italian public policy: Court of Cassation, 28th July	
1977, No. 3352	377

952

J

Ship

Ship - Ship under a foreign flag owned abroad by an Italian citizen - Art. 3 of Law No. 689 of 1976 - Obligation of importation in Italy - Analogy with the crime of contraband - Contrast with Art. 24 of the Italian Constitu- tion - Question of Constitutional invalidity not manifestly unfounded: Bologna Court of Appeal, Order of 28th January 1978	807
Succession - Art. 23, Preliminary Dispositions of the Civil Code - Same a rule of Private International Law and not of International Law of Civil Pro- cedure: Court of Cassation, 14th October 1976, No. 3438	18
Treaties and General International Rules - Brussels Convention of 27th Sep- tember 1968 on jurisdiction and the execution of judgments - Art. 21 thereof - lis pendens - Art. 22, idem - Connecting factor: Bassano del Grappa Tribunal, 13th February 1976	74
Treaties and General International Rules - New York Convention of 10th June 1958 on the recognition and enforcement of foreign arbitral awards - Requirements thereunder: Messina Court of Appeal, 19th May 1976	77
Treaties and General International Rules - Warsaw Convention of 12th October 1929 (as modified by Hague Protocol of 28th September 1955) on interna- tional carriage by air - Autonomy thereof relative to rules of the lex fori - Art. 22, No. 2a, idem - Limits of liability - Same excluded in cases of intent or gross negligence by carrier - Art. 22, No. 5, idem - Conversion into national currency of units of account prescribed therein - Criteria therefor: Milan Tribunal, 25th October 1976	89
Treaties and General International Rules - New York Convention of 10th June 1958 for the recognition and enforcement of foreign arbitral awards - Clause providing for arbitration abroad - Applicability thereof - Rules under said Convention - Ius Superveniens - Retrospective effect thereof: Court of Cassation (plenary session), 8th November 1976, No. 4082	93
Treaties and General International Rules - Brussels Convention of 27th Sep- tember 1968 - Art. 9 thereof - Criteria establishing jurisdiction relative to insurance of immobile property and to the determination of civil liability - Inapplicability thereof: Court of Cassation (plenary session), 20th No- vember 1976, No. 4358	100
Treaties and General International Rules - Italo-French Convention of 3rd June -1930 on the execution of judgments - Art. 19 thereof - Criteria for con- necting factors - Inapplicability thereof: Court of Cassation (plenary session), 20th November 1976, No. 4358	100
Treaties and General International Rules - Hague Convention of 24th October 1956 on the proper law applicable to maintenance obligations in favour of minors - Art. 1 thereof - Reference back to the law of country of minor's normal residence to establish the quantum and beneficiary in cases of claims for maintenance - Applicability of said art Prevalence thereof over the provisions of the Italo-German Convention of 9th March 1936 on the recognition of judgments: Court of Cassation, 29th November 1976, No. 4498	106
Treaties and General International Rules - Conventions on maintenance (New York, 20th June 1956; The Hague, 24th October 1956; The Hague,	

15th April 1958) and the Brussels Convention of 27th September 1968 -Petition for enforcement of foreign courts' maintenance order - Applica-

bility of said Conventions: Court of Cassation, 16th December 1976, No. 4651	110
Treaties and General International Rules - New York Convention of 10th June 1958 on the recognition of foreign arbitral awards - Same replaces the 1927 Geneva Convention - Arts IV and V of the New York Convention - Conditions for recognition - Applicability thereof: Court of Cassation, 20th January 1977, No. 272	341
Treaties and General International Rules - London Convention of 19th June 1951 between NATO Members on the status of their armed forces - Art. IX, para. 4 thereof - NATO employees none the less subject to local jurisdic- tions: Court of Cassation (plenary session), 25th January 1977, No. 355	114
Treaties and General International Rules - New York Convention of 10th June 1958 on the recognition of foreign arbitral awards - Art. II thereof - Re- quirements thereunder - Derogation from Art. 2, Italian Code of Civil Procedure - Requirements for international elements of parties concerned, under Geneva Convention of 24th September 1923 - Said provisions not applicable - Applicability of said New York Convention also to arbitration agreements predatings its entry in force: Court of Cassation (plenary session), 25th January 1977, No. 361	118
Treaties and General International Rules - London Convention of 19th June 1951 on the status of N.A.T.O. armed forces - Contract of Employment with an Italian citizen - Art. IX said Convention - Applicability thereof: Court of Cassation (plenary session), 27th January 1977, No. 400	346
Treaties and General International Rules - Brussels Convention of 27th Sep- tember, 1968 - Same contains norms for immediate application - Art. 3 thereof - Same excludes applicability of Art. 2 and Art. 4, Nos. 1 and 2, Code of Civil Procedure - Art. 5, said Convention - Forum destinatae solutionis - Interpretation to be in accordance with the judicial concepts of the Italian system: Padua Tribunal, 31st March 1977	559
Treaties and General International Rules - Hague Convention of 15th April 1958 on Maintenance Judgments - Swedish judgment made prior to Sweden's ratification of said Convention - Applicability of said Convention: Court of Cassation, 4th April 1977, No. 1279	565
Treaties and General International Rules - New York Convention of 10th June 1958 for the recognition and execution of foreign arbitral awards - Art. 2 thereof - Written form of arbitration clause - Applicability thereto: Milan Tribunal, 19th May 1977	360
Treaties and General International Rules - Vienna Convention of 18th April 1961 on diplomatic relations - Art. 31 thereof - Immunity of diplomatic agents from civil process and Court Orders - Contrast with Arts. 2, 3, 10, 11, 24 and 102 of the Italian Constitution. Question of constitutional validity thereof not manifestly unfounded: Rome Tribunal, Order of 27th May 1977	365
Treaties and General International Rules - Italo-Swiss Convention of 3rd January 1933, on the recognition and execution of judgments - Art. 8 thereof - Pending action - Inapplicability of said Convention: Court of Cassation (plenary session), 27th June 1977, No. 2752	576

 \mathcal{I}

Treaties and General International Rules - Italo-French Extradition Convention of 12th May 1870 - Arts. 1, 2 and 7 thereof - Possibility of extraditing for French capital crimes - Question of constitutional validity thereof not manifestly unfounded, even with reference to the European Extradition Convention of 13th December 1957: Turin Court of Appeal, Order of 6th July 1977	372
Treaties and General International Rules - Art. 43 of the Vienna Convention of 24th April 1963 - Consular immunity in disputes concerning contracts of employment - Extension thereof: Court of Cassation (plenary session), 7th July 1977, No. 3008	579
Treaties and General International Rules - Italo-Swiss Trade Treaty of 27th January 1923 - Same recognises the right of establishment of companies founded or authorised under the laws of either state - Extention of the Treaty to Liechtenstein - Recognition of Anstalten in the Italian system: Court of Cassation, 28th July 1977, No. 3352	377
Treaties and General International Rules - New York Convention of 10th June 1958, on arbitral matters - Applicability thereof also to arbitration agree- ments concluded before its entry into force: Court of Cassation (plenary session), 15th September 1977, No. 3989	772
Treaties and General International Rules - New York Convention of 20th June 1956, on the recovery of maintenance payments abroad - Question of constitutional invalidity of rules permitting the free defence of foreign citizens manifestly unfounded: Court of Cassation, 6th October 1977, No. 4254	780
Treaties and General International Rules - London Convention of 19th June 1951, on the status of the armed forces of N.A.T.O. countries - Art. IX, No. 4 thereof - Contract of employment between an Italian citizen and the N.A.T.O. administration - Applicability of said Convention thereto - Art. I, No. 1 b thereof - Assumption of « civil elements » by dependents of the armed forces - Inapplicability of said Convention thereto: Court of Cassation (plenary session), 14th October 1977, No. 4372	585
Treaties and General International Rules - Paris Accord of 21st May 1962, establishing C.I.H.E.A.M Art. 3 thereof - Recognition of juridical per- sonality - Art. 2 of Further Protocol, No. 2 - Judicial immunity - Limits thereof: Court of Cassation, 21st October 1977, No. 4502	789
Treaties and General International Rules - Brussels Convention of 27th Sep- tember 1968 on jurisdiction and the execution of judgments - Erroneous application thereof in proceedings to enforce a British court's judgment - Opposition to same - Arts, 36 and 37 said Convention - Applicability thereof: Court of Cassation, 27th October 1977, No. 4617	382
Treaties and General International Rules - Vienna Convention of 24th April 1963, on consular relations - Art. 43 thereof - Judicial immunity of consuls - Art. 58 - Extension of said immunity to honorary consuls - Appli- cability thereof: Court of Cassation (plenary session), 10th November 1977, No. 4834	798
Treaties and General International Rules - Brussels Convention of 27th Sep-	

tember 1968 on jurisdiction and the execution of judgments - Art. 5, No. 1 thereof - Criteria establishing jurisdiction - The place where an obligation

arose or should be performed - Determination thereof on the basis of the Private International Law of the State where proceedings brought: Court of Cassation (plenary session), 10th November 1977, No. 4836	386
Treaties and General International Rules - Italo-Austrian Convention of 16th November 1971 on the execution of judgments - Art. 7, No. 3 thereof - Incompatibility of a period of sixteen days in which to enter an appearance: Florence Court of Appeal, 19th December 1977	389
Treaties and General International Rules - European Convention at Strasbourg, 24th April 1967, on the adoption of minors - Art. 3 thereof - Age limits for the adopting party - Applicability thereof - Automatic insertion of such rule into the Italian system by virtue of the Order implementing the Convention: Bologna Juvenile Tribunal, 11th January 1978	609
Treaties and General International Rules - Art. 5 of the Brussels Convention of 27th September 1968, relative to Art. 59 of the Hague Convention of 1st July 1964, on International sales of goods: Turin Tribunal, 16th January 1978	590
Treaties and General International Rules - Paris Accord of 26th July 1961, between Italy and the Supreme Command of Allied Forces in Europe - Art. 8 (f) thereof - Disputes with local civilian employees - Applicability thereto: Court of Cassation, 6th February 1978, No. 518	809
Treaties and General International Rules - Treaty with the Holy See and the Concordat of 11th February 1929 - Art. 1 of the Law of 27th May 1929, No. 810, implementing the said Treaty - Inadmissibility of a request for a referendum to abrogate said Treaty: Constitutional Court, 7th February 1978, No. 16	604
Treaties and General International Rules - London Memorandum of 5th Octo- ber 1954 - Effects thereof on the sovereignty of Zones A and B., Territory of Trieste: Court of Cassation, 6th June 1978, No. 2824	836
Treaties and General International Rules - Brussels Convention of 27th September 1968 - Art. 21 thereof - Pending action - Art. 17 thereof - Written contractual term: Milan Court of Appeal, 26th September 1978	844
CASES IN THE COURT OF THE EUROPEAN COMMUNITIES	
I. TELCHINI, Cases in the Court of Justice of the European Communities (January-June 1977)	128
I. TELCHINI, Cases in the Court of Justice of the European Communities (July-December 1977)	
Brussels Convention of 27th September 1968 - Arts. 30 and 38 thereof - Concept of ordinary form of appeal - An autonomous concept - Comprises any complaint to obtain annulment or reversal of a judgment and which must be brought within a time period commencing with the effective date of such judgment: Judgment in Case 47/77, 22nd November 1977	183
Brussels Convention of 27th September 1968 - Art. 16 - Concept of subject matter in a contract leasing immobile property - Same does not embrace a	

contract leasing a commercial undertaking exercised over immobile property which the lessor has negotiated through a third person: Judgment in Case 73/77, 14th December 1977	417
Brussels Convention of 27th September 1978 - Art. 14, para. 2 thereof - Restric- tive scope thereof - Concept of payments by instalments - Sames does not apply to sales under deferred terms between commercial undertakings: Judgment in Case 150/77, 21st June 1978	889
E.C. Law - Enforcement thereof in Members' legal systems - Contrast thereof with subsequent domestic laws - Duty of Courts in Member countries not to apply the domestic rule, without need to await its abrogation: Judgment in Case 106/77, 9th March 1978	616

CASES IN FOREIGN COURTS

Foreign Judgments and Administrative Acts - Brussels Convention of 27th Sep- tember 1968 - Art. 27, No. 1 thereof - Italian judgment against an Italian company acting as Agent of a German supplier - Same contrary to German public policy: Landgericht Hamburg (Società Italiana Assicurazioni Tra- sporti v. Reederei de Vries & Co. KG), 27 December 1977	422
Jurisdiction - Brussels Convention of 27th September 1968 - Art. 5, No. 3 thereof - Place where damage sustained - Art. 22 <i>idem</i> - Connecting factor - Requisites therefor: Bastia Cour d'Appel (Soc. Montedison v. Département de la Haute Corse, Départements de la Corse, Prud'homie des Pêcheurs de Bastia), 28th February 1977	189
Jurisdiction - Brussels Convention of 27th September 1968 - Art. 5, No. 3 thereof - Act producing harmful consequences in the territory of the Court in which proceedings brought - Confirmation of said Court's jurisdiction - Art. 21, said Convention - Need for proof that two petitions seek to remedy the same damage: Cour de Cassation (Soc. Montedison v. Departement	

DOCUMENTS

Convention between Italy and Spain for judicial assistance, and the recognition and execution of judgement in civil and commercial matters (Madrid,	
22nd May 1973)	193
Convention for criminal judicial assistance and extradition between Italy and	
Spain (Madrid, 22nd May 1973)	198
Amendments to Art. 3, No. 2, of the Law on Italian Citizenship	206
Convention on the abolition of legislation of foreign public documents (The	
Hague, 5th October 1961)	425
Consular Convention between the Italian Republic and the People's Republic	
of Poland (Rome, 9th November 1973)	625

Convention on Legitimation by Marriage (Rome, 10th September 1970)	641
Convention between Italy and Egypt on Service abroad, Letters Rogatory, Judicial Assistance and Law Studies in civil and commercial matters (Rome,	
2nd April 1974)	893
New Declaration of Italian Government for the Purposes of Arts. 25 and 46 of the European Convention on Human Rights	899
the European Convention on Truman Aights ,	099
CURRENT EVENTS AND RECENT DEVELOPMENTS	
Electoral platforms and direct elections by universal suffrage to the European	
Parliament (N. Ronzitti)	207
The work of the Tenth Session of Uncitral (T. Scovazzi)	429
United Nations and Multinational Corporations (t. t.)	900

- Legislative, Judicial and International Practice Two Resolutions of the Council of Europe on citizenship matters - Draft Bill by the Swiss Government on judicial assistance in penal matters - Amendment to Art. 29 of the Italo-British Consular Convention of 1st June 1954 - A Resolution of the Committee of Ministers of the Council of Europe on the grant of asylum in their territories - Entry into effect of the Barcelona Convention on pollution of the Mediterranean - Entry into effect of the Italo-Spanish Convention of 1oth June 1974 on military service of persons with dual nationality - Communiqué on the disposability of goods under the Osimo Treaty - U.S.A. withdraw from the I.L.O. - The Ventura case before the European Commission of Human Rights - Arbitral disputes submitted to the « International Centre for the Settlement of Investment Disputes »
- Legislative, Judicial International Practice On the recognition of maintenance judgments in the E.E.C. - On the Corporate Charter of the undertaking charged with the implementation of JET - The coming into effect of the second amendment to the Accord establishing the International Monetary Fund - Modification of the definition of Special Drawing Rights
- Legislative, Judicial and International Practice New rules for the grounds of divorce - Declaration of the Italian Government on the Convention to eliminate racial discrimination - Ministerial note on the provision of professional services by lawyers to foreign subjects - Recent ratifications of the European Convention on International Criminal Law - New Members of the I.L.O. - A resolution of the Council of Europe on juridical assistance
- Legislative, Judicial and International Practice A new Convention on Carriage of goods by Sea (Hamburg, 31st March 1978) - Vienna Convention on Succession of States in respect of Treaties - Ratifications of the New York Convention on Special Missions - Convention against hostile environment modification enters into force - State of ratifications of the Hague Conventions currently in force
- Notices The 1978 programmes of the Hague Academy of International Law -Ceremony in tribute to Professor De Nova - Meeting at Paris on the 1968 Brussels Convention - A Meeting at Turin on International Business Law

903

221

650

214

Notices - A meeting on E.E.C. rules of competition - A Convention on the increase in E.E.C. membership and the interests of Southern Italy - The Eighth Converse on European Law	
Eighth Congress on European Law	435
Notices - Seminars on Private International Law at Mexico City - VII Congress	
of Italian and German jurists	653
Notices - Ceremony at Pavia in memoriam of Professor De Nova (R. Cafari	
Panico) - Round Table in Community Law at the Catholic University	906

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



Rivista associata all'Unione della Stampa Periodica Italiana

Linotipia Veronese Fiorini - Verona, Via Altichiero, 11